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OF

J O H N J A Y

AND

A L E X A N D E R H A M I L T O N .

Henry Brant, Remick

W. B. Brant, Remick

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P R E F A C E.

HAVING undertaken to furnish a sketch of the Life of Jay for the "School District Library," the assent of his son, the Hon. William Jay, was asked and liberally granted. The large and interesting memoir which he has published of his father was then placed in the hands of one of my sons for the purpose of selecting the dates and facts necessary for the purpose. This task was executed by him in such a manner as to leave me little else to do but suppress some parts which would have swelled the sketch beyond the proposed limits. It is therefore given to the world under his name.

It will probably be seen, that, adopting on almost all occasions the views entertained by Judge William Jay of the character and merits of his father, there are slight differences in the colour given to public acts, and in estimates of men and measures, from those adopted by me in the biographical sketches of Clinton and Hamilton. It has not been thought necessary to reconcile these discrepancies, particularly as they will afford the reader a better opportunity of forming his own opinion.

JAMES RENWICK.

Columbia College, 1st August, 1840.

L I F E
OF
J O H N J A Y.

BY
HENRY B. RENWICK.

EDITED BY
JAMES RENWICK, LL.D.

J O H N J A Y.

CHAPTER I.

French origin of the Family of Jay.—Brief Memoir of his immediate Ancestors.—His Birth and early Education.—He enters Columbia College, and graduates with Honour.—He studies Law, and is admitted to its Practice.—He is appointed Secretary to the Commission for running the Boundary between New-Jersey and New-York.—He marries.

To a youthful mind, the military deeds of the heroes of the Revolution generally present themselves in more striking lights and glowing colours than the less glaring, though equally useful and patriotic, actions of the statesmen and councillors of the same period. This predilection for those who were covered with military glory has, in our own time, not been confined to youth alone, and we have seen the successful general considered by a majority of the nation fit to perform the duties of any and every other office. Although such a predilection may naturally exist, yet we should not neglect the claims on our admiration and the grat-

itude due to those who, though they never perilled themselves on the field of battle, yet still were equally patriotic, equally forgetful of self-interest, and displayed as great talent in the senate, the council chamber, and the closet.

(John Jay, the subject of the present memoir, was one of the latter class; and we find him, in various periods of his long and eventful life, fulfilling the duties and holding the stations of a wise councillor, a skilful statesman, an upright judge, and a framer of treaties and state papers, by which the successes of others in the field were secured and turned to advantage.)

The account that we have of his ancestors extends as far back as the time of his great-grandfather, and is derived from a paper prepared by himself for the perusal of his children. Pierre or Peter Jay, the person referred to, was a native of France, and resided in the City of Rochelle. His business was that of a merchant, and, from collateral facts, we have reason to believe that he was both wealthy and enterprising. Like many of the most industrious and most respectable inhabitants of that part of the country, he was a Protestant, and doomed, as we shall see, to undergo much trouble and persecution on account of his religion. He seems to have had a sort of presentiment probably derived from the growing disfavour of the Protestants in the sight of the government,

that it would at some time or other be necessary for him to sacrifice both country and property on account of his religion. On this account he determined to send one of his sons to England, to acquire a knowledge of that language, and be educated there. His eldest son was the one chosen for this purpose, but he unfortunately died on the voyage. With great promptness, the father sent his second son, Augustus, who was then barely 12 years old, to take his place. This happened A.D. 1677. The troubles and persecutions which Mr. Jay seemed to have foreseen, and which preceded the revocation of the Edict of Nantes, now commenced, and in January, 1685, the Protestant church at Rochelle was pulled down, pursuant to a decree passed at that time. Finding that the Protestants still continued the exercise of their religion, and were not to be forced to change it by any ordinary means, a regiment of dragoons was despatched to that portion of the country, and quartered upon the Protestant inhabitants. We have full evidence that these armed missionaries had free license to make their hosts as uncomfortable as possible, and were encouraged to practise upon them those insults so easily perpetrated by an unrestrained and licentious soldiery.

We can easily imagine to ourselves what must have been the situation of a pious family, and what the feelings of a husband and a father, under

such circumstances. Mr. Jay's were such that he determined that those nearest and dearest to him should no longer be exposed to such insult and contamination; and, finding an opportunity that was at once safe and secret, he sent his family, together with several articles of value, on board a vessel bound for England. This vessel luckily arrived in safety; and now the mind of Mr. Jay must have been comparatively at ease, for those who were most exposed and least fit to defend themselves were rescued from persecution. The departure of his family did not long remain undiscovered; and suspicions arising from it of his own intentions, he was arrested and thrown into prison. From thence, by the intervention of some worthy Catholics, his friends, he was rescued; and now, perceiving that France was no longer a residence for him, he only awaited an opportunity to leave it for ever. Before this intention could be put in practice, it was necessary to secure some support for himself and family in a strange land; this he could not procure by turning any of his French property into money, because his motives would easily have been seen, and a second arrest have followed. At this time several of his ships were expected to arrive, loaded with merchandise belonging to him, and one of them was to be the means of his escape. In order to effect this, an agreement was entered into with one of the pilots

of the port, in conformity with which the first of his ships that arrived was to anchor at some distance, and not come up to the town. The first of his vessels that made its appearance was one from a Spanish port, loaded chiefly with iron ; and fortunately, both for his honour and his future means of living, both ship and cargo belonged entirely to himself. The pilot, faithful to his promise, anchored the vessel in the place determined on. With his assistance, Mr. Jay was enabled to embark, and sail was immediately made for England. He arrived in safety, and happy must have been the meeting between him and his family. They were now out of danger, free from persecution, and in the enjoyment of their own chosen religion ; and although their means were not so great as formerly, yet they still had a sufficiency.

On his escape from France being made public, all his property was confiscated, and never was returned so as to be of any use either to him or to his children. But one thing was wanting to their complete happiness ; this was their uncertainty as to what would be the fate of their second, now their oldest, son, who was at that time probably in Africa, on commercial business of his father's. This son, Augustus, the grandfather of John Jay, returned (not knowing his parents' escape) to Rochelle. Thence, facilitated by the kindness of his friends, he managed to procure a passage to

Charleston, S. C.; for he also, like his parents, was resolute in sacrificing everything for his religion. From Charleston, driven by a climate unhealthy even to natives, and doubly so to foreigners, he travelled to Philadelphia; but finding in that city, then in an infant state, no field for the exercise of commerce, to which business he had been brought up, he thence made his way to New-York. Here he not only found occupation, but friends, driven, like himself, by persecution, to carry the arts and industry of France to other shores. Here also he found churches built and attended by French refugees, and a service performed in his own language. Finding that his success in life must wholly depend upon his own exertions, he applied himself with diligence and skill to business, and followed for many years the calling of a supercargo. During this time he both heard from his parents and made them acquainted with his welfare.

Leaving his fortunes for a while, we turn to those of his younger brother, Isaac. At this time the war between William of Orange and James II. of England was in progress, and a regiment of French refugees was formed by the former to assist in driving from Ireland his Catholic competitor for the throne. Into this regiment Isaac entered, impelled by the ardour of youth, and, no doubt, not a little by the recollection of

the many insults and injuries he and his family had received at the hands of those who professed the Romish religion. He sealed his conviction of the justice of his own cause with his blood, and died not long after the battle of the Boyne, from the effects of wounds received in that engagement.

In the year 1692, Augustus, while pursuing his commercial avocations, started on a voyage from New-York to Hamburg; on the passage the vessel was captured by a French privateer, and carried into St. Maloes. He, with other prisoners, was confined, not very closely, as it appears by subsequent events, in a fortress about 15 miles from that place. While there, news arrived of the battle of La Hogue, and the prisoners were ordered into closer confinement. They in some way received news of this order, and determined, before it was put in force, to effect their escape. Accordingly, on the evening that was to precede their imprisonment, Augustus and some of his companions succeeded in scaling the wall and dropping into the ditch. Whether they were stunned by the fall or were recaptured, he had no means of ascertaining. He himself, however, got out of the ditch, took the road to, and arrived safely at, Rochelle. Here he was secreted and protected by his aunt, until she found means to send him to the Isle Aux Rhé, whence he got passage to Denmark. On his way home he pass-

ed through Holland, performed his business there, and then crossed over to England, where he saw his father and sister for the first time since their separation so many years before. There was one drawback to their joy, one cause of grief; the mother, who had gone through so many trials with them, was no more. The calls of business soon separated this happy party, and Augustus took a last farewell, and returned to his business in America.

A few years after his return he married. His wife was Anna Maria, daughter of Mr. Balthazar Bayard; and she too, like himself, was descended from a family that had suffered from religious persecution. Her great-grandfather was a Frenchman, a Protestant professor of theology in one of the colleges at Paris, who was forced either to give up his religion or leave his country during the reign of Louis XIII. He chose the latter alternative, and fled to Holland, whence his grandson emigrated to this country.

By this marriage, Augustus Jay found himself surrounded by a numerous and influential Dutch connexion. In the colony of New-York, the descendants of the Dutch were the most numerous class of the population, and they were remarkable for the liberal manner in which they befriended and assisted their countrymen, or those connected with them. Soon after his marriage, finding

himself in comfortable and respectable circumstances, Mr. Jay sent out for his father and sister; but the father felt that his declining years would not permit such a voyage, and the sister would on no account leave him. Augustus Jay went on for many years increasing his wealth and influence; and, after having had three children, all of whom were daughters, he was at last made happy by the birth of a son in the year 1704. This son, the father of John Jay, he named Peter. No other children were born, and Peter therefore, at his father's death, which did not take place until he had reached the age of 24, found himself sole inheritor of the name of Jay.

Peter Jay, like his father and grandfather, was a merchant, and followed his business with such success, that, at the age of forty, he was able to retire, and live on the proceeds of his former industry. At the age of 24 he had married Mary Van Cortlandt, and she, with their ten children, accompanied him to Rye, a small village on Long Island Sound, where he had purchased a farm. Their eighth child, John Jay, was born on the 12th of December, 1745, and even in his childhood displayed some inklings of the spirit which was so manifest in after years. His early education was principally derived from his mother, who was a woman both of talents and information. She instilled into his mind those Christian prin-

ciples which we shall find exhibiting themselves in his future career.) At the age of eight he was sent to a grammar school at New-Rochelle. His instructor there was the Rev. Mr. Stoope, a native of Switzerland, and pastor of the French church. To great learning and fondness for mathematical pursuits he united absence of mind; and his pupil suffered from the latter almost as much as he gained from the former. To his wife, who was as miserly as he was careless, the care of his household was committed, and several anecdotes are recorded of the sufferings of young Jay, both as to food and treatment.

John Jay remained under the tuition of Stoope for three years, and was then placed by his father under the care of a private tutor, who prepared him for a college. The one selected was King's, now Columbia College, an institution which boasts of many celebrated men among its alumni. He now seems to have commenced with energy and perseverance to conquer some defects and acquire many excellences; among the former were an indistinctness of articulation, and a habit of reading aloud with such speed that it was impossible for him to be understood; both these faults he overcame. He applied himself to all his studies with diligence, and in composition was so anxious not to lose any ideas, that even when in bed he kept paper and pencil beside him, in order to secure any

new thought that might strike him when he awoke. In fine, he obtained both praise and esteem from all his teachers by his application and his correct deportment. (In his fourth collegiate year he decided upon the law as his future profession, and commenced his studies by reading with a fellow-student "*Grotius de Jure Belli et Pacis*." Before taking his degree, he was, on account of conduct to which no moral blame could have been imputed, for a time suspended. He soon returned, and was first in his class when the term of their collegiate education expired. At the Commencement he spoke the Latin salutatory address, then, as now, considered the highest honour, and received his degree of Bachelor of Arts on the 15th of May, 1764.)

Two weeks afterward he began his professional studies in the office of Benjamin Kissam, a lawyer of some repute in the City of New-York. The respect and esteem between master and pupil soon became mutual, and some pleasing letters are still preserved, which show the good understanding that existed between them. In 1768 Mr. Jay was examined and admitted to practice, and soon, by his talents and industry, was possessed of a lucrative business. His intense application and confinement produced ill health; as a remedy, he took lodgings six miles from town, and rode in and out on horseback daily.

Commissioners were at this time appointed by the king to determine a disputed boundary-line between the provinces of New-York and New-Jersey. Mr. Jay was named secretary of that commission, and thus commenced his public career as a servant of that king to whom he was afterward so long and so successfully opposed.

In the year 1774, Jay, being then twenty-nine years of age, was united in marriage to Miss Sarah Livingston. William Livingston, the father of this lady, had distinguished himself as an ardent and active patriot, and, from the lead he took among the Whigs of New-Jersey, became the first governor of that state after the declaration of independence. Jay, by the father's side descended from the French Huguenots, by his mother's from a family of the first note among the Batavian settlers of the New-Netherlands, was by this marriage allied to the most influential persons of British origin among the inhabitants of the State of New-York. He was thus saved from all risk of becoming obnoxious to the petty jealousies which difference of race and origin often give rise to. The circumstances of birth and connexion with the three prevailing races, especially with the most noted and respectable in all, could, at a time when equality had hardly become a theory, and was still farther from being practically acted upon, have had no little influence in bringing him early before the public eye. Jay

was not one of those who disappoint the expectations derived from their nativity and alliances, but fully warranted by his valuable services the honours which were showered upon him at a very early period of his life.

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CHAPTER II.

Committee of Correspondence appointed by the Citizens of New-York.—Jay is chosen a Member.—Proposal for a General Congress.—Jay is elected a Delegate to the first General Congress.—Address of Congress to the People of England.—Provisional Congress of New-York.—Commencement of Hostilities.—Appeal of Congress to the Inhabitants of Canada.—Declaration by Congress of the Causes for taking up Arms.—Petition of Congress to the King of Great Britain.—Moral Consequences of this Petition.—Jay is named a Colonel of Infantry.—Overtures of the French Government.—Measures for the repression of the Tories.—Manifesto of Congress in relation to Privateers.—Convention in New-York for the formation of a Constitution.—First Draught of that Constitution by Jay.—Reflections on the Character of that Instrument.

THE clouds which had long been gathering upon the political horizon of America now began to roll themselves towards the zenith, and burst in storms on the devoted heads of the colonists. Acts of aggression on the one side were followed

on the other by resistance to oppression and injustice. Men were called from the bosom of their families and from the pleasures of domestic life to act for their country, and to give themselves up wholly to what was required for the maintenance of its liberty. Among these was Mr. Jay, and his first office in the service of the patriots was as one of a committee appointed by the citizens of New-York to correspond with their fellow-colonists on all matters of moment, and especially upon the manner of their resistance to the oppression of the mother country. Mr. Jay was appointed on a sub-committee, whose business was to prepare answers to such communications as might be received.)

Among the labours of this sub-committee, an answer was framed to a letter from the people of Boston. The draught of this is supposed to have come from the hands of Jay. It is not a little remarkable, as it contains the first proposition for the provinces to elect deputies to a general Congress. The New-York committee, on the 4th of July, 1774, passed resolutions that their city ought to send delegates to this Congress, when and wherever it might be held; they also nominated five gentlemen, among whom was Jay, as suitable representatives. They were elected; but Mr. Jay and two of his colleagues, conceiving, from the manner of the election, that they were unfairly appointed, refused to serve, unless another election

was held. Accordingly, a second election was held, and in a more formal manner; all who paid taxes voted, and the proceedings were countenanced and controlled by the corporation of the city. Mr. Jay was again elected, and proceeded with alacrity and cheerfulness to take his seat in a body whose existence was not countenanced by the laws of the country, and whose members would be liable to royal persecution.]

The situation of a delegate to Congress seems to have been by no means considered as one that ought to be coveted, and many counties were not represented in consequence of the difficulty of finding proper persons who were willing to serve. The towns along the Hudson, unable, from these causes, to elect members, committed to the New-York delegation the right of voting and acting for them.

Congress assembled in Philadelphia on the 5th of September, 1774. Mr. Jay took his seat on the first day of the session, and, although the youngest member, occupied a prominent place in the business of the assembly. One of the first measures of the house was the passage and recommendation of a strict non-importation act, by which the colonists bound themselves to use no production of the mother country. This act, it was fondly hoped, would, by depriving English merchants of their trade, induce them to remonstrate

against the decrees of government, and procure their repeal. No such action followed, and, by their rigid observance of this agreement, the colonists found that they had not so much injured England as almost ruined themselves; for, at the commencement of actual hostilities, they were destitute of every munition of war, every manufactured necessary of life.)

\ Congress appointed several committees, and, among others, one for drawing up an address to the people of England, and a memorial to the inhabitants of British America; of this committee Jay was a member, and to him, young though he was, was assigned the duty of preparing the former paper. He acquitted himself well; the address was adopted by Congress, and was considered by all as no less remarkable for the sentiments it contained, than for the manner in which they were expressed. After a short session of six weeks Congress adjourned, but not until they had made provision for reassembling.

In the interval between the sessions, the City of New-York took measures, by the appointment of a committee with powers, to secure the observance of the non-importation agreement. Of this committee Mr. Jay was one. It was soon seen that other business was to be transacted than the mere interruption of a commerce with England, and, in order to do this, it was necessary to invest some

public body with higher and more extended powers; the citizens of New-York wished also to have the sanction of the other inhabitants of the state to their measures. The Legislature of the state no longer possessed the confidence of the patriotic portion of the people, and it was advised by the existing committee (to meet all these exigencies), that an elective body should meet at New-York, performing the functions and wielding the power of that part of the government. This recommendation was acted upon. A provisional Congress, as it was called, assembled in New-York, with Jay as a member, who was thus a third time elected to a situation of responsibility and danger.

(On the 15th of May, 1775, the general Congress again assembled at Philadelphia; and although, at that time, active resistance and aggression on their part seems not to have been contemplated, yet they took every peaceable measure dictated by prudence for the maintenance of their civil liberties.) The battle of Lexington seems to have developed fully to them the plans of the British government, and showed them that it was determined upon using force when other means failed. The act of open hostility to the mother country seemed to them so decided and wholly novel a step, that they were only willing to use it as a last resort; but to this resort they were soon forced,

and Congress took measures for the enlistment of an American army and the formation of an American navy.

On the 15th of June Washington was appointed commander-in-chief, and soon after other generals were chosen. While this was going on, Mr. Jay manifested his discrimination of character by nominating as brigadier John Sullivan, saying that his good sense was known to the house, and that he would take his chance for his military talents. The after career of General Sullivan justified this recommendation.

Congress soon perceived the necessity of uniting the Canadas to them in the contest that was about to take place. They well knew the importance of the decision of that province as to which cause it would espouse in the approaching contest; they easily saw that it would be impossible for Canada to be neutral; that she must be either their friend or their foe. They therefore appointed Mr. Jay to draw up a call to the inhabitants of that country to join with their Southern brethren in repelling the aggressions of England. This paper calls on the inhabitants of that country, and invokes them, by every sentiment of their honour, every love for freedom, every conviction of the justice of the quarrel, and by every even prudential consideration, to make common cause with the united provinces against their common enemy

Great Britain. This appeal, as is now a matter of history, was in vain.

(In July Congress published a declaration, "setting forth the causes and necessity for taking up arms." Mr. Jay was one of the committee which drew this paper, but it is not positively known whether or not he was the author. In this declaration Congress made it clear that they had not appealed to arms actuated by any vain ambition of becoming independent states, but that they were driven into the field for the protection of their liberties, their lives, and their property.)

(On the eighth of the same month Mr. Jay succeeded, against strenuous opposition, in procuring an act of Congress sending a petition, signed by its members, to the king. The passage of this act was opposed, on the grounds that a like memorial from the former Congress had been treated with neglect; but Jay vindicated its adoption on the plea that, if this also were neglected, the world would see that there was no other course left them; that they were without other means of relief; and were driven, almost without their own consent, to resort to actual hostilities.) Mr. Jay, even to the latest period of his life, was accustomed to refer to this paper, and to state his conviction that it had great effect in producing unity of purpose among his countrymen. Congress, having made an appeal to the people of Canada,

thought it judicious to enlist in their favour the sympathies of other countries under the same tyranny as themselves; and, in accordance with this resolve, Mr. Jay, as a member of a committee, drew up an able and judicious document, addressed to the people of Ireland and Jamaica.

¶ Moved by the situation of New-York, a city which, remarkable even then for its wealth, as well as for its easiness of access from the sea, its long inland water communication, and for the numbers of its Tory population, would present itself to the British government as an easy conquest, and, when conquered, would furnish an excellent place of arms, Congress recommended measures for its defence. The provincial Congress of that colony (as it yet must be styled) called out the militia, and proceeded to officer and equip them. They found great difficulty, however, in procuring talented officers, and were obliged to tender a commission to Mr. Jay, although he was already a member of two legislative bodies. Ever ready to serve his country, he accepted the tender, and became colonel of the 2d militia regiment of infantry. His duties as a legislator were more necessary to the state than those of a soldier, and this command was never assumed.

America had taken up arms relying solely on itself, without hope of foreign aid, and the Continental Congress was therefore not a little surpri-

sed and delighted by receiving informal intelligence that there was a foreigner at that time in Philadelphia who had important communications to make to them from his government. No notice was at first taken of the fact; but, the information having been reiterated, Congress appointed a committee, consisting of Jay, Jefferson, and Franklin, to confer with this envoy. Accordingly, they had a meeting with an old French gentleman, who assured them of the sympathy of his most Christian majesty, and informed them that he would supply them, if they required, with money, ammunition, and arms. To their requests to give up his authority, he would only reply by saying, "Gentlemen, I shall take care of my head;" thus intimating that his government wished to give assurances that they might deny if necessary.

This communication produced a strong effect upon Congress, and led to the formation of a secret committee to correspond with the friends of America in Great Britain, Ireland, and other parts of the world; of this committee Jay was a member.

The colony, as well as the City of New-York, contained many Tories, and was far from being unanimous on the great question of the time. The inhabitants of Queen's county, Long Island, had proceeded so far as to refuse to send members to the colonial Congress, and had declared themselves

neutral in the present struggle. Congress, at the instigation of Mr. Jay, passed resolutions commenting severely on the indecision and cowardice of their course, and also, as was necessary, took measures, by sending troops, for disarming the inhabitants and arresting the most odious.

Congress became every day more strongly convinced that it was absolutely necessary for them not only to defend themselves from direct aggression, but also, in turn, to become the assailants. The commerce of the enemy was most open to attack, and commissions were accordingly issued to privateers, authorizing them to capture vessels belonging to the English. This measure was more decided than any that government had yet resolved upon, and they felt it due to themselves to explain their reasons; Mr. Jay, as usual, was directed to prepare this statement, which task he performed with his customary judgment and elegance.

The several papers which have been mentioned as drawn up by Jay, in the name and on behalf of Congress, may be cited as models. The effect which they produced, not only upon the population of the United States, but on the nations of the old Continent, was prodigious. On the floor of the British Parliament they were quoted as equal in beauty of style, vigour of expression, and sound argument, to the most celebrated and admired productions of the classic authors of antiquity.

“When your lordships,” said Chatham, in a celebrated and often-quoted speech, “look at the papers transmitted to us from America; when you consider their decency, firmness, and wisdom, you cannot but respect their cause, and wish to make it your own. For myself, I must declare and avow that, in all my reading and observation (and it has been my favourite study; I have read Thucydides, and studied and admired the master states of the world)—I say I must declare, that for solidity of reasoning, force of sagacity, and wisdom of conclusion under such a complication of difficult circumstances, no nation or body of men can stand in preference to the general Congress at Philadelphia.”

The last which has been cited had the effect of preparing the public mind for the reception of the great and startling question of independence. The colonists in it made their last appeal to the justice of the monarch whose authority as sovereign they still recognised, although in arms against him; and having done so ineffectually, the abjuration of their allegiance became an inevitable step. The struggle was commenced for the enjoyment of their rights as British subjects; and, failing in redress by humble petition to the throne, no resource was left but that of renouncing all fealty to the authority which had not fulfilled its part of the unwritten compact between sovereign and people.

(Mr. Jay, while in attendance upon the Continental Congress, was elected a member of the Congress of his native colony ; and as the former body had passed resolutions calling upon the colonies to adopt forms of government for themselves, our statesman was recalled by the convention to give his assistance in the formation of a state government. (We see, from the history of the former pages, how strongly his countrymen relied upon the talents and patriotism of Mr. Jay ; he was called to every office, civil or military, in which there was opportunity for displaying his judgment.) We now find him holding three appointments at once, so well were all convinced of his fitness for every duty that was imposed upon him.)

On the 31st of May he reported resolutions, in which the provisional Congress called upon their constituents to elect a new body, which should have, besides the usual powers, that necessary for the formation and putting in practice a new form of government. These measures were resolved upon, a new Convention was elected, and Mr. Jay as one of its members.

On the 29th of June, Lord Howe, with a fleet and army, arrived at the harbour of New-York ; and the Convention, after giving orders, which show how little they were prepared for defence, retired to White Plains. While there they received a copy of the Declaration of Independ-

ence. On this occasion Mr. Jay reported a resolution, which was unanimously adopted, by which the colony pledged itself heart and hand to aid Congress in carrying out that declaration.

(Even at this early period we see the states standing upon their rights and their separate sovereignty, and we find Mr. Jay resisting an act of the Continental Congress, by which they appointed officers to a battalion that had been raised by the State of New-York. He gave such reasons for his course as convinced the Convention, and they remonstrated with Congress on this straining of their authority.)

(On the 16th of July Mr. Jay succeeded in carrying resolutions declaring all persons who in any way aided or assisted England guilty of treason to the new state, and liable to be punished accordingly. This measure was rendered justifiable by the Declaration of Independence, which declared that the country was no longer a colony, but a separate state, and had perfect right to provide in every way for its own safety.)

Some of the British fleet passed up the Hudson River, and the Convention, fearful of the consequences of the enemy's having control of that important means of communication, appointed a committee to place obstacles in the channel and annoy the shipping. Mr. Jay, as a member of this body, was despatched to Connecticut in order to obtain

cannon and shot, and was invested with almost absolute powers for forwarding the business of his mission. He succeeded after much trouble, and delivered twenty cannon at West Point.

On the first of August the Convention appointed Mr. Jay as member of a committee to draught a new constitution, and, shortly after, placed him in the exercise of what, at the present time, would appear to us dictatorial power. The exigences of the case demanded that strenuous exertions should be made for the development of the numerous plots against the new government, and for the conviction and punishment of those engaged in them. Mr. Jay was chairman of the committee which wielded the power for this purpose, and was for a long time actively engaged in performing this duty. Many Tories were imprisoned, banished, or put under surveillance by their orders, and the whole state was purified and kept in strict allegiance to the Union.

Now arrived the period of greatest despondency and gloom during the time of the Revolution. The British arms succeeded everywhere; our waters were filled with their shipping, our shores crowded with their armies. The American troops, enfeebled by want and dispirited by defeat, were retreating through New-Jersey, pursued by an overwhelming force. At this crisis, then, at this period of general despondency and dismay,

Mr. Jay aroused himself, and implored his countrymen, in spirit-stirring language, not to be cast down, but to gird themselves to the work, and use every honourable means for the welfare of the glorious cause in which they were engaged. Of this appeal Congress thought so highly, that they caused it to be printed at their expense, and recommended it to the attention of all. In this long and well-written address, Mr. Jay recommends a patriotism stern, decided, and devoted; and calls upon his countrymen, by the examples of antiquity, by what they owe to themselves and to their children, by their sensitiveness to the praise or censure of the world; in fine, by every incitement, to do their duty to themselves and to their country.

Although he was thus earnest in calling upon the friends of the cause, he was no advocate for too great severity upon its enemies, and on every occasion softened, as much as possible, the punishment of the disaffected and Tories. He even went so far as to procure a vote of censure from the Convention, directed to one who he thought had abused the power intrusted to him.

(At this time the parents of Mr. Jay, in their retirement at Rye, were exposed to inconvenience, if not to danger, on account of the presence of the invading force; and, with his customary high-toned notions of duty, judging that their welfare ought to be his first care, he procured leave of absence

from the Convention, and succeeded in placing his parents in safety at Fishkill. The family mansion fell into the hands of the enemy, and was not occupied by its lawful owners until the end of the war.)

In 1775, on account of the statements of the French envoy, Congress had appointed a secret committee of correspondence with the other parts of the world.

This committee enumerated Mr. Jay among its members, and had now sufficiently advanced in its business to feel itself justified in sending an agent to France, to endeavour there to obtain munitions of war. An interview with the French minister was secured to him through the intervention of some influential merchants in France and Holland, whose good offices the committee had secured. The agent was Mr. Silas Deane, and he was directed to correspond with Mr. Jay, making use of sympathetic ink, as it was important that England, at that time at peace with France, should have no suspicion of the proposed assistance. Some of these letters still exist, and of others copies remain in Mr. Jay's handwriting.

We are now about to behold Mr. Jay in a far more important station than any he yet had held, and are to recognise him as the framer of a constitution that long governed one of the most important states of the Union, and under which it

rose to unexampled influence and prosperity. There is no doubt, both from the testimony of collateral circumstance and from the fact of the first draught being in his own handwriting, that this constitution was mainly the production of Jay. The document was important on many accounts, was a task of no small difficulty, and one that required peculiar tact and skill. It was not only requisite, as in all constitutions, that it should provide a safe form of government, but also that it should reconcile itself to many contradictory opinions, bind together many antagonist parties, and, in the face of danger and opposition, be able to maintain itself. For these reasons, this constitution is one of the most enduring monuments to the fame of Jay; and, had it not happened that he was unable to be present at its adoption by the Convention, we should have had still more reason to admire it.

The circumstances that prevented this constitution from being all that Mr. Jay desired happened in this wise. On account of the peculiar character of many members of the Convention, he thought that his measures would have greater chance of success were he only to propose some of them in the first draught, and move others by way of amendment; being, however, suddenly called upon to attend the deathbed of his mother, he was prevented from being present at the adoption of the

constitution by the Convention, and thus disabled from amending it. This constitution was adopted on the 20th of April, 1777, and governed the State of New-York until 1821.

The Constitution of the State of New-York, as framed by the Convention of 1776, and in the draught of which Jay bore so great a part, was one of the most masterly applications of sound principles which the world has ever witnessed. While it gave the most perfect security to life, liberty, and property, it opposed an efficient barrier to the licentiousness which has, in so many instances, accompanied the progress of revolutions. It was, in truth, exactly suited to the times and circumstances which gave it birth; and if, in the course of events, it ceased to be applicable, it was rather because the circumstances had changed than because it was defective in its origin. Nay, we may still be permitted to question whether the principle which had served as the groundwork of the freedom of Britain, and so long maintained in Belgium and Spain, namely, that taxation is the basis of representation, be not more likely to give permanency to government and stability to freedom, than that which classes all men as free and equal. The former we derive from the Hampdens and Sidneys of England, the latter is the later growth of the French Revolution. It is a remarkable fact, that the call for a convention to remodel

the Constitution of New-York grew out of no complaint against the principle of representation, or the forms of the legislative and judicial bodies, but arose from dissatisfaction at the construction which had been given to the original instrument by a subsequent convention ; a construction which Jay, as governor of the state, had resisted, because contrary to its spirit. When, however, a convention was assembled to amend the Constitution, the leaders of both the parties into which the people of the state was then divided entered into the race of popularity, and the elective franchise was by common consent rendered universal.

However well the old Constitution may have worked, and however different may be the principle on which the new one is founded, no fear, we may confidently trust, need be entertained that it will not continue to be equally conducive to public happiness and prosperity. That it shall do so must depend upon the virtue and intelligence of the people ; and the duration of our liberties will be the necessary result of the diffusion of education and knowledge to the same wide extent as the right of suffrage.

CHAPTER III.

Council of Safety of the State of New-York.—Appeal to the Inhabitants of Tryon County.—Jay is named Chief-justice of New-York.—Visit of Washington to Jay.—Scheme for the Conquest of Canada.—Jay returns as a Delegate to Congress, and resigns his seat on the Bench.—He is chosen President of Congress.—He is appointed Ambassador to Spain.—He sails on that Mission.—He is driven by Stress of Weather into Martinique.—He re-embarks, and lands at Cadiz.—He is invited to Madrid, but not formally received.—Question in relation to the Right of navigating the Mississippi.—Draughts of Congress upon Jay, and Difficulties to which he is exposed in consequence.—Jay is named a Commissioner to negotiate a Treaty with Great Britain.—Impolitic and humiliating Instructions to the Commissioners.

IN our last chapter we have followed the life of Mr. Jay up to the time of the formation of a system of government for his native state. It now became necessary to put this form into operation. The Convention accordingly appointed such officers under the new Constitution as were actually

necessary for the administration of affairs, and then dissolved themselves, having first indicated certain of their own members as a "Council of Safety," to hold the reins of government until the election of a governor and Legislature by the people. Mr. Jay was a member of this council, and was also appointed chief-justice of the Supreme Court. This council, as was necessary on account of the times, held arbitrary and absolute power. While a member of it, the state was placed in a most trying situation. The enemy held possession of New-York in the South, and an invading army from Canada entered it from the north ; even true men began to despond, and those disaffected arrayed themselves in open hostility. At this time Mr. Jay, at the request of his colleagues, addressed an appeal to the inhabitants of Tryon County, imploring them not to rely on the promises and protection of the enemy, but upon themselves and the assistance of their fellow-citizens. In the course of events, it was now imperative that a governor should be chosen. Mr. Jay was regarded by many as a fit occupant for that office, and was desired to present himself as a candidate. He refused the offer on the grounds that he could be of more use to the state in the office which he at present held ; at the same time declaring that he was fully sensible that it was an office both of greater profit and greater honour, but that his pa-

triotism taught him to work, not for his own good, but for that of his country. Mr. Jay appears at this time, from the tenour of his letters, to have been much worried at some imputations cast against the fair fame of an old friend of his, General Schuyler, who then commanded the army in the northern part of the state. These charges were apparently confirmed by Congress, for they recalled the general from his command; but the true reason was given in a letter from a member of Congress to Mr. Jay, stating that he was recalled to humour the eastern militia, who would not fight under his command.

On the 9th of September, the first term of the Supreme Court under the new Constitution was held at the village of Kingston, on the Hudson River. Mr. Jay presided at this court; and the circumstances under which it was held seem to have made a deep impression on his mind. In his charge to the jury, he pointed out to them, in glowing colours, the situation that they were in, and the, to them, particularly happy and pleasurable fact, that they were the first judicial body assembled under a new and free Constitution.

Mr. Jay, as member of a council to whom it was necessary that all bills should be referred, and by whom they must be approved before they became laws, was obliged to be in attendance upon the Legislature during its entire session.

The only relaxation that his duties permitted were occasional visits to his only surviving parent at Fishkill. While there he was visited by General Washington, who gave proof of the high esteem in which he held Mr. Jay by imparting to him a confidential communication from Congress on the subject of the invasion of Canada. This invasion was to have been conducted by a combined French and American land force, accompanied and supported by a French fleet in the St. Lawrence. Both the commander-in-chief and Mr. Jay disapproved of this plan of operation; but their real and chief objection was not set forth in the letter addressed by the general to Congress on the subject. The reason was this: that, were Canada once conquered, and the French permitted to set foot in their old possessions, they would be unwilling to give them up to the United States, and danger was apprehended from a French colony so near at hand.

The question thus presented was one of vast importance to the future interests of the United States. The French had claimed to include in their two colonies of Canada and Louisiana the whole Valley of the Mississippi; and, had they been again put in possession of the former, there is little doubt that the claim would have been renewed. Still, the assistance of France was of such importance to the rising liberties of America, that it became a

nice and delicate question how this proposition could be rejected without giving displeasure to so useful an ally. We shall see, on a subsequent occasion, how far this old territorial claim on the part of France influenced the conduct of its ministry in the negotiations for a general peace; and it seems to have been fortunate that a jealousy was at this early period awakened in Jay's mind as to the designs of that nation. No one can now believe that the French government gave its support to the rebellion of the British colonies except from interested motives, however speedily the spark of liberty was communicated to the people of France, where it was destined to excite such a vast and terrific conflagration, in which the thrones of Europe were in danger of being utterly consumed.

While the affairs of the State of New-York were still in confusion, and fixed governments were just getting into operation in the other states, the people inhabiting the present State of Vermont, then a territory claimed both by New-York and New-Hampshire, took advantage of the state of anarchy, and resolved themselves into an independent community.

By the Constitution of the State of New-York, the chief-justice was rendered incapable of holding any other office at the same time except that of delegate to Congress, and that only on special occasions. The Legislature of his own state were

anxious to be represented by Mr. Jay while this cause was pending against Vermont ; they therefore resolved that the present occasion was a special one, and elected him as their delegate to the Continental Congress : after an absence of two years he again took his seat in that body, and was, on the resignation of their then president, elected to that office, the highest in the gift of the republic. While holding this office, he thought that a due attention to its duties would prevent his performing those which were incumbent on him as chief-justice ; and, accordingly, he wrote to the governor of New-York, resigning the latter place. After some objections his resignation was accepted. In his after correspondence he remarks to the governor, that the Legislature may now be inclined to keep him in Congress ; but that, unless he could provide satisfactorily for the comfort of his father, it would be impossible for him to remain. Satisfactory arrangements were made, and Mr. Jay continued at his post.

The funds for the support of the war had hitherto been supplied by an emission of paper money by Congress. This money was issued without any limit except that of their necessities, and had depreciated so far as to be almost valueless. The English encouraged the counterfeiting it as one means of annoyance ; and this currency was now so little worth, that, in the words of a hero of the

Revolution, a cartload of provision could only be purchased by a cartload of money. We ourselves have seen sheets of it lying in garrets, and worth no more than so much wrapping-paper. Congress set themselves seriously to work to obtain some better means of carrying on the war, and were resolute in the opinion that all ought to be lost rather than the government of the United States should become bankrupt, and thus lose its honour ; they therefore decided that the separate states of the confederacy should furnish contributions, and addressed a letter to them explaining their reasons for coming to this decision. Mr. Jay, their president, was directed to compose this letter ; and, in accordance with their instructions, he in a few days furnished a document that is still preserved and admired, no less for its business-like statements than its eloquence.

It will be recollected that Mr. Jay was elected to Congress to sustain the claim of the State of New-York against Vermont. To fulfil this duty, he proposed and carried certain resolutions, and transmitted them to the Legislature, accompanied by a letter to the governor, explaining the objections of Congress to move further in the matter for the present.

In the treaty entered into between France and the United States, a secret stipulation had been inserted, according to Spain the right of becoming a

party to that treaty whenever she might think fit. Congress, on the 27th of September, determined to send Mr. Jay as minister plenipotentiary to Spain. He accepted the appointment, and resigned the presidency of Congress, which office he had filled for nearly a year.

Out of the few vessels of their navy Congress had selected one, the frigate *Confederacy*, to carry out the French ambassador, and thus honour their ally. It was determined that Mr. Jay should take passage in the same vessel, thus securing to him not only greater comfort, but greater safety. On the 20th of October, only a few days after his instructions were received, Mr. Jay and his wife set sail, without even having had the satisfaction of bidding adieu to their parents and friends. He was now about to carry to other climes that usefulness and zeal which had long distinguished him in his own country. He was destined to be the upholder of the credit of his nation, the uncompromising supporter of her dignity, and the zealous framer of a treaty by which peace and independence, as well as commercial advantages, were to be secured to her. He was destined, too, to go through many trials before these measures were accomplished, and was placed in situations where he was forced, by his own convictions, to take responsibility, and be guided more by his own sentiments than his instructions while fulfilling the duties of his mission.

On the voyage, as is well known to those conversant with the naval history of our country, the frigate was, after being deprived in a storm of all her masts, forced to bear away for the Island of Martinique, where, after many difficulties and a narrow escape from the enemy's fleet, they arrived in safety.

The *Aurora*, a French frigate, was detailed by the governor of the island to carry the two ministers to France. After only ten days' detention, Mr. Jay pursued his voyage, and was landed at Cadiz; it being found impossible, on account of the superiority of the English at sea, for the frigate to make her port of destination, which was Toulon. On the voyage the frigate was chased by an English man-of-war, and escaped through her superiority in sailing.

This termination of the voyage proved not only uncomfortable, but seriously annoying to our ambassador, for he was without letters of introduction, or other usual means of making acquaintance. He, besides, was not furnished with letters of credit to persons at that place, on which account he was unable to procure funds. He soon, however, made acquaintances at Cadiz, and, among others, that of the governor of Andalusia, from whom he received much kindness, and by whom he was initiated into the policy of the Spanish court, and made acquainted with the characters of the po-

litical leaders. Soon after his landing, a note, stating his arrival and his business, was carried by one of the secretaries of Mr. Jay to the Spanish minister, who returned one in answer, desiring his presence at Madrid, but at the same time informing him that he would be received informally, and not as the ambassador of an independent nation.

A few months previous to this time the Spanish governor of Cuba had made a successful attack on the English posts on the Mississippi, and had thus, in effect, declared war upon England, although the formal declaration by their minister in that country was yet to follow. This event showed clearly to Mr. Jay what must be the policy of the Spanish court towards his own land; that, in the end, an alliance would be necessary. At the same time, Spain had many projects for her own advancement in America, and her policy led her to demand as much as possible from the United States, in return for the advantages of her alliance and the recognition by her of American independence. Among these objects was the exclusive navigation of the Mississippi. Had it not been for the precipitation of Spain, Congress would have been prepared to surrender this right, considering that, although a great, still it was only a secondary object when compared to the assistance of Spain. But now Spain, in alliance with France, had armed herself against England; therefore the

United States would experience her indirect aid, even if they did not enter into positive treaty. Taking all these subjects into consideration, Mr. Jay resolved to make no treaty except on terms equally advantageous, and to give way to no claims that would operate unfavourably to the future interests of his country.

Dr. Franklin, in one of his letters to Mr. Jay, confirms the opinion of the latter as to not surrendering the navigation of the Mississippi ; and, in one of his usual aphorisms, observes, that such an act would be as sensible as a man's selling his street door.

The question of the navigation of the Mississippi was most momentous. Had the right been ceded to Spain, the population of the United States must either have been confined between the Apalachian group of mountains and the sea, or that portion of it which, by a spirit of enterprise, should have been led into the fertile regions of the West, must have formed attachments and connexions incompatible with their remaining in the American Union. The colonists of the present western states, compelled to use the flag of Spain in their commerce, would have lost their feelings of nationality ; and, although there would have been little probability that they could have been converted into the obedient subjects of the Spanish monarchy, they would have been more

likely to have assumed the position in which we now find the settlers of Texas than to have remained the citizens of the Union.

Jay was thus placed in a most responsible and delicate position. His instructions would have warranted the admission of the pretensions of Spain, and he was aware that a majority of Congress was prepared to make even this great sacrifice to secure her alliance, and particularly her pecuniary aid. The negotiations, indeed, had hardly commenced, when he was thrown into the position of a suppliant for money, and thus the moral force of his position, as the ambassador of the United States, was diminished. In spite of these difficulties, he saw the question in its proper light, and wisely determined that no prospect of immediate relief should induce him to forego what he saw was indispensable to the consolidation of the Union. In this resolution he continued unshaken, and by his steadiness preserved the American confederation from the greatest dangers to which it had ever been exposed, those of falling, at an early period, into comparative insignificance, and of being finally dismembered.

The circumstances by which the difficulties of this negotiation were increased were as follows :

Congress, forced by the necessities of their country, and not doubting the speedy formation of an alliance with Spain, had, in order to pay and sup-

ply their army, drawn bills to the amount of half a million, payable in six months, upon Mr. Jay. These bills, they hoped, would be met by a subsidy to be obtained from Spain; and their almost desperate situation forced them to rely even upon hope, could they by that means procure funds. On receiving information of this procedure, Mr. Jay was placed in a more unpleasant predicament than formerly, as the knowledge that she could protest these bills, and thus ruin American credit, gave Spain a greater hold upon the United States, and a better opportunity to urge her claims. Still our ambassador put the best face on the matter, and represented it to Spain as showing the conviction of Congress that a treaty would soon be made.

The Spanish minister kept the advantage his government had obtained, and refused to pay the bills unless America agreed to furnish ships-of-war as an equivalent to the money. This proposal Mr. Jay refused. On the arrival of the bills Mr. Jay was forced to obtain leave from the Spanish government to accept them as they arrived, thus procuring a loan to the extent of each bill. When \$13,000 had thus been procured, the American minister was informed that Spain would advance no more without receiving from the United States the right of sole navigation of the Mississippi; but, anxious at the same time not to close the negotiation wholly, they offered to secure the payment

of \$150,000 in three years, could Mr. Jay make a loan to that amount. All his attempts to make such a loan proved fruitless; and this patriotic man, determined at all hazards to preserve the credit of his country, resolved to accept the bills in his own name and at his own risk.

Soon after coming to this determination, and after having accepted to the amount of \$50,000, he was cheered by the arrival of \$25,000, sent by Dr. Franklin, who had procured it from France. This opportune aid revived his hopes, and he accepted all bills when presented. Spain, now perceiving that there was danger of America recovering from her embarrassments without her aid, and that, if such were the case, the prospect of an advantageous treaty would be small, stepped forward and became responsible for the payment of \$150,000.

The private embarrassments and annoyances of this year were equal to the public ones of Mr. Jay. In receipt of but a small salary, and that irregularly paid, he was forced to follow the court from one place to another, and often, through motives of economy, to leave behind him, exposed to the dangers of a foreign land, a wife whom he fondly loved. He was also dispirited by want of information from his family and friends in America; yet, in spite of all this, he bore up manfully, and managed to send to his family presents of clothing

and other necessities economized even from his own scanty means.

On the 15th of February Congress had passed a resolution, instructing their minister to Spain to give up their claim to ~~the~~ navigation of the Mississippi. Mr. Jay received notice of this resolution through a private letter, but was astonished at receiving no public communication on the subject. He was still more surprised when the Spanish secretary of state gave him a letter from the president of Congress acquainting him with their resolution. This document had been placed in the postoffice, whence it was obtained and opened before its delivery. At the same time, Mr. Jay received notice of his appointment as commissioner to negotiate peace with England, and also instructions to accept the mediation of Russia and Germany. In his letter to the president of Congress acknowledging these despatches, he strongly urges the impropriety of the latter measure, and states how galling it was to his feelings for the United States, who had solemnly declared themselves independent, thus to humble themselves. He also states that it was not his feelings of private humiliation that he most severely felt, for he had always been ready to sacrifice his own pleasure to that of the public, but it was the humiliation of his country ; and, had it not been for the confidence Congress had reposed in him, and the

difficulty of finding a suitable substitute, he would have refused to be their agent in this matter.

In compliance with the former of these instructions, he drew up a form of treaty with Spain, by an article in which the United States gave up their long-disputed claim to the navigation of the Mississippi ; but, at the same time, he took it upon himself to state, that, were this treaty not concluded before a general peace, then that clause should be void. /

(Associated with Jay as commissioners for peace were Adams, Franklin, and Jefferson ; and the instructions to Adams, even more humiliating than those to Jay, directed him to proceed in every matter with the advice and concurrence of the French court. The conditions of these instructions had been forced upon Congress by the French ambassador.)

France, in her alliance with the United States, proposed to herself merely to secure their independence of the British crown. This, of itself, would be a sufficient humiliation to England ; and it would be much more advantageous to France were they left as dependants on her, and not elevated to the rank of a powerful and, possibly, a rival nation. France therefore demanded to have full knowledge of all the articles of a treaty between Great Britain and the United States ; and, while she secured independence to the latter,

desired, at the same time, that their boundaries should be as contracted, their powers as limited as possible.

It is a mistaken notion to suppose, as is sometimes done, that France and Spain entered into the Revolutionary contest from motives of affection to America. They did it chiefly because, in so doing, they had an opportunity of humbling the naval power of England, and reducing her superiority in the Western hemisphere. With all these facts, and many more subordinate to them, Mr. Jay was well acquainted; and, in consequence, was resolved, while he obeyed the letter of his instructions, to disregard their spirit; and, while making an advantageous treaty, to uphold, as far as possible, the honour of his own land.

In 1781 Congress established an office of foreign affairs, and their minister's intercourse with them was in future carried on with the head of that office, and not with the president of Congress.

The government of Spain, which had furnished security for the payment of the bills accepted by Mr. Jay, retired from its agreement, and thus forced him to decline their payment. From this embarrassment he was again relieved by Franklin, who informed him of a loan made by France, and gave him permission to liquidate the bills from its proceeds. Mr. Jay again resumed their payment, and thus successfully finished a transaction to

which he had been impelled more by the necessities of his country than his own convictions of its prudence. Another letter was soon received from Dr. Franklin, urging upon Jay his departure for Paris, where all things tended to the opening of negotiations with England. In this letter Franklin observed, as was perfectly true, that time enough had been given to Spain to form an alliance if she desired; and that, if she did not, forty years would no more forward the matter than the four already spent. These opinions coincided with those of Mr. Jay; and on his principle of always making himself most useful, he soon after took his departure for Paris, where he joined Franklin, who had long represented his country at the court of France, and by whom many successful schemes had been planned for the aid of America and the annoyance of her enemies.

CHAPTER IV.

Negotiations at Paris for a general Peace.—Jay's Acts as Commissioner on the part of the United States.—Attempt of the French Ministry to control the Commissioners, which is frustrated by Jay.—He communicates with the British Ministry through Mr. Vaughan.—Preliminary Articles agreed upon between England and the United States.—Jay is offered the Embassy to England.—A general Peace concluded.

As soon as the commission was organized at Paris, the French government, in accordance with the policy detailed in the last chapter, commenced an active interference, in order that a treaty with England might be so formed by the United States as to suit the views of the French cabinet. Congress, by instructions to their ministers, had given their sanction to this interference; and we find it exerted in the case of the treaty between the United States and Holland.

In this case the French court had the unparalleled impudence to transmit a correspondence to Congress, informing them that the French ambassador in Holland had given no assistance to the American one in procuring a recognition of Amer-

ican independence, because France thought that an application for such recognition "would have no favourable influence."

Mr. Adams, nevertheless, asked for and procured the recognition of the United States as independent.

Not content with intermeddling in this case, the French ministry transmitted many communications to Congress, stating what were their views in relation to a treaty with England. From the tenour of these communications, Congress began too late to perceive that, in their desire to please a powerful ally, they had too far committed themselves, and given a right of interference to a nation which would use that right only for its own advantage. We find Mr. Jay, during his residence in France, busily counteracting this French influence, in all cases with success, and chiefly on his own responsibility. He arrived in Paris on the 23d of June, 1782, and in an interview with Dr. Franklin at Passy, was informed of the state of the negotiation. Parliament had passed a resolution asking the king to terminate the war in America. Ministers had found themselves in a minority on this resolution, and had resigned. The new ones that were appointed had sent to Paris Mr. Grenville, who had authority to make a treaty with France, and with the "ministers of any prince or state whom it might concern." His mission led to no results.

Previous to his departure from Spain, Mr. Jay had been informed that the Spanish ambassador at Paris would be furnished with authority to continue the negotiations for a treaty. Mr. Jay accordingly waited on that ambassador, and was furnished by him with a map on which the boundary-line that Spain would agree to was marked. This line ran far to the east of the Mississippi. Mr. Jay did not discuss the subject, as he had not yet seen the ambassador's commission.

After a short delay he showed the map to the Count de Vergennes, minister of France, whose secretary was present at the interview. This secretary a few days afterward addressed a note to Mr. Jay, giving, unasked, his opinion on the subject. In this note he proposed what he called a conciliatory boundary, contracting the United States to still narrower limits ; thus showing, though in an informal manner, that, while the French government desired the independence of America, it at the same time wished them, when independent, to be as powerless as possible. Mr. Jay penetrated these designs.

Mr. Jay had sent a copy of his commission to the Spanish ambassador, and, before he would negotiate with him, insisted that a similar copy should be sent to himself. This course of Mr. Jay's placed France again in a dilemma ; for, should the Spanish ambassador deliver to Mr. Jay

a copy of the commission authorizing him to treat with the United States, by that very act Spain acknowledged them as independent, and thus France had less hold upon them ; but, on the other hand, if he withheld that paper, then Mr. Jay refused to treat at all, and thus Spain could define no boundary, and America was at liberty to take as large a one as she could, and thus be less dependant on France. Many means were tried to force Mr. Jay from this position, but he managed to overcome or evade them all. The ambassador of Spain became convinced that a treaty was impossible unless American independence was recognised. He therefore put an end to his political intercourse with Mr. Jay, but, at the same time, became more intimate and friendly with him in private life ; thus showing that, although opposed to him on public grounds, he yielded to him his personal esteem.

On the 25th of July the king of England directed an order to be sent to Richard Oswald, then at Paris, empowering him to treat with the commissioners of the thirteen colonies or plantations in North America. Mr. Oswald soon received this order, and communicated it to the American commissioners, who, according to their instructions, laid it before the Count de Vergennes. This minister advised them to go on, and stated that the power was sufficient. Even Franklin, when con-

sulted, replied that he thought it would do. But Mr. Jay indignantly refused, and was firm in the stand he had taken not to treat with a power which recognised them only as thirteen colonies, and not as an independent nation. He tried, by many arguments, to bring over Franklin to his opinion, but that gentleman considered it only as a point of form. Mr. Jay was now placed in a singularly unenviable and unpleasant situation. He was obliged either to obey his instructions, join with Dr. Franklin, and, according to his view, dishonour his country, or else refuse to treat until by his own measures he should produce such a posture of affairs as would enable him to negotiate. He chose the latter course, and was, in the end, successful.

He commenced by assuring Mr. Oswald that he would make no treaty with him under the present commission of Great Britain; and, having succeeded in convincing that gentleman that such a course would operate greatly to the disadvantage of his government, he afterward, at Mr. Oswald's request, drew up a proper form of commission, which was sent by courier to London.

The next day Count Vergennes requested Mr. Jay to go on with the treaty. He refused. The French minister then suspected what had taken place, and, after consultation with the English minister, Mr. Herbert, another courier was de-

spatched, whose mission it was afterward found was to give information to the English court that the French ministry considered the commission sufficient.

The English therefore returned for answer that they would grant independence by treaty, but would not acknowledge it beforehand.

On the receipt of this intelligence, and from its tenour, Mr. Jay observed to Mr. Oswald that the Count Vergennes must have interfered. The fact was acknowledged, and Mr. Jay now considered himself at liberty to expose to Mr. Oswald the policy of the French government, at the same time pointing out to him the desire of America to be as independent of France as of England. He also drew up the form of a joint letter from himself and Franklin, reiterating their refusal to negotiate unless on the basis of independence. This letter Franklin refused to sign, and it was therefore left unsigned by either ; but it was, nevertheless, transmitted to England as explanatory of the views of the American commission. The turn which circumstances now took, and a letter of which Mr. Jay became possessed, convinced him that other machinations were going on, not only against his country's honour, but her interest. He therefore was convinced that decided measures were necessary, and took a step as bold as successful. He sent Mr. Vaughan, an English gentleman then in

Paris, as his messenger to the court of England, and by him intimated that it was now well known that America could not be conquered ; that peace was as necessary to England as to America ; and that there would be no treaty unless on an equal footing. This measure of Jay's was concealed as well from his own colleague as from the French minister. The representations of Mr. Vaughan were convincing, his efforts were successful, and he returned to Mr. Jay, accompanied by a courier bearing a commission to Mr. Oswald, which empowered him to treat with the commissioners of the United States of America.

Negotiations now commenced in reality ; and the labour of Mr. Jay was cheered by the conviction that, notwithstanding he was unaided by his colleague, and opposed by all others, he had succeeded in placing his country upon a footing that was as advantageous as honourable.

A draught of the treaty by Mr. Jay was soon agreed upon by the commissioner, and sent to the English ministry for approval ; but, at the same time, its provisions were concealed from the French, and farther action on the treaty was delayed until such time as France and England should be ready to make peace.

Mr. Adams arrived on the 20th of October, to the great satisfaction of Mr. Jay ; for in him he hoped to find a zealous assistant, and one whose

opinions in all points would coincide with his own. Soon after his arrival Mr. Jay held a consultation with him, in which he explained the views, policy, and machinations of the French and Spanish governments, and was gratified by hearing in turn that Mr. Adams coincided with him in everything, and was much pleased with the course he had taken.

Mr. Adams soon succeeded in impressing these opinions on Dr. Franklin, and the commissioners were now united in every respect, determining, while disobeying their instructions, to uphold the honour and interests of their own country.

We can imagine the gratification of Mr. Jay on finding his measures thus confirmed, and the course he had taken, while relying upon himself, not only justified, but approved of.

The negotiation was soon completed, and a compact was signed by which the commissioners on both sides bound themselves, when the proper time arrived, to enter into a treaty whose articles were defined in that compact. France was now left to make peace for herself, without deriving any advantage from her supposed power of influencing America. The course of Dr. Franklin throughout this negotiation can only be explained on the supposition that he was influenced by feelings of charity towards the motives of France.

He could not believe that a nation which, with

such seeming disinterestedness, had fought our battles, and spent for us her treasure, would end by injuring that ally whose cause she had advocated, in whose defence she had bled. He had been for many years a resident at the French court; the recipient of admiration and adulation to himself, of money, troops, navies for his country; but his eyes were at length opened, and he saw that France had aided America, not so much from feelings of friendship to her as of enmity to England.* In despite of these motives, we Americans ought not to forget the services of France, and must ever remember with gratitude that, although that nation aided us to gratify her own hatred, to obtain her own ends, yet, nevertheless, that aid was of the last importance to our country, and that without it we should have undergone years of suffering and bloodshed, although, in the end, we must have conquered.

* Mr. Fitz-Herbert, English minister at Paris at that time, has lately given full proof of what were the intentions of France with regard to America, by stating, in writing, that in all his conversations with the Count de Vergennes, that minister "never failed to insist on the expediency of a concert of measures between France and England, for the purpose of excluding the American states from the fisheries, lest they should become a nursery for seamen."

The same gentleman also declares that he can safely assert, "that it was not chiefly, but solely, through Mr. Jay's means that the negotiations of that period between England and the United States . . . brought to a successful conclusion."

It was not until the 20th of January that negotiations were in such a train that the powers at war in Europe agreed to suspend hostilities. The American ministers had obtained the great ends they sought as to boundaries and independence, and were now more slowly proceeding with a negotiation securing to us commercial advantages. Mr. Oswald was about this time recalled, and was not succeeded by Mr. Hartley until the spring of 1783. This interval afforded some moments of leisure to Mr. Jay, for the first time since he had entered the service of his country. These moments were, however, imbibited by declining health. About this time he received a letter from Thomas Jefferson, and also a communication from Congress, intimating that he would, if pleasing to him, be appointed, after peace, ambassador to England, or to any other court he might choose. This offer he declined, principally because he thought that the post of minister to England was desired by Mr. Adams, and that the appointment was due to him as a reward for long and faithful service; another reason for his refusal was his determination to return, as soon as duty permitted, to his own country.

He was at this time invited by Spain to return to Madrid, and finish the negotiations commenced there. This invitation he accepted, but was prevented from accomplishing his purpose by increasing ill health.

All the belligerent powers in Europe, tired of a long war, were at this time represented at Paris by ministers negotiating a general peace. The terms between all but England and Holland were agreed upon before the summer ended. This treaty was delayed by an interference of France similar to that she had exerted towards America. Mr. Jay had the satisfaction of obtaining copies of the instructions from their government to the ambassadors of Holland, and found that they, like himself, had been ordered to proceed with the confidence and consent of the French government. They were not as successful in evading these instructions as the American ministers had been, as is proved by the terms of their treaty.

The 3d of September, 1783, was appointed for signing all the treaties, and on that day Mr. Jay had the satisfaction of consummating that which he had so long been working for, and of securing to his own country not only honour, but great commercial advantages. By this treaty America was in the first place recognised as independent, and was also given boundaries as large as she could desire. A share in the fisheries, then of great importance to our infant commerce, was conceded; and, in fact, every advantage proposed to be obtained by the Revolution was secured.

CHAPTER V.

Jay visits London.—He is taken ill, and compelled to have recourse to the Bath Waters.—Delays attending the audit of his Accounts.—He embarks for the United States, and lands at New-York.—His distinguished Reception by the Inhabitants of that City.—He is chosen Secretary of Foreign Affairs by Congress, and elected a Delegate from the State of New-York.—He negotiates with the Spanish Minister.—Hostilities commenced by Algiers, and Report of Mr. Jay on the subject.—He is assailed by Littlepage, and vindicates himself triumphantly.—He is chosen President of the Abolition Society.—Failure of the Negotiation with Spain, and Report of Mr. Jay on the subject.—His Report on the Frontier Posts, on the Slaves retained by Great Britain, and the collection of Debts by British subjects.

(THE objects of Mr. Jay's mission were now accomplished, the claims of his country on him were for the present ended, and he determined to do what regard for himself would have warranted him in doing long before ; namely, to take proper measures for the preservation of a life equally precious to himself, his friends, and his country.)

Leaving his family in Paris, he proceeded to London, and we find him received with honour and respect in a country where, but a few years before, he would have been considered as a rebel and imprisoned. While at London his life was despaired of; but he recovered, and journeyed to Bath, where he received great benefit from the waters. In January he returned to Paris.

His situation there was one of great pleasure and improvement. He was well and favourably known by many of the great men of the day; was honoured for his course in the business of his country, respected for the uprightness of his character and the talents that he was known to possess. His own mind was almost free from care, and we find him entering with pleasure into those reunions which have always been one characteristic of French society. One subject only disquieted him. He had been engaged in many pecuniary transactions on account of the United States, and those of great amount. Congress had appointed an auditor in Europe to settle their accounts. To this auditor Mr. Jay was to account for the sums that had passed through his hands. Many considerations demanded his return to America, but nothing could persuade him to leave Europe with any, even the slightest, imputation on his honour, to afford any handle that calumny could lay hold of, to insinuate that his mission was as much for

his own benefit as that of the state. The vouchers of his accounts while in Spain were still at Madrid, in the hands of his former secretary, Mr Carmichael, whom he had left there as chargé d'affaires. He reiterated to Mr. Carmichael his desire that he would proceed to Paris with these documents, and thus enable him to audit the accounts; the chargé d'affaires refused, and informed him of his determination not to leave Madrid unless ordered by Congress. Mr. Jay now found himself under the necessity of writing to Congress, requesting that such an order might be sent. On its arrival Mr. Carmichael obeyed, and in the spring of 1784, all the business that could detain Mr. Jay in Europe was finished. He therefore was at liberty to return, and travelled with his family for Dover, whence he took shipping for New-York, at which place he arrived on the 24th of July. Loud were the congratulations with which he was received; many were the honours showered upon him; and his landing more resembled the return of a triumphant conqueror than that of a peaceful statesman. All classes united to honour him. At that early period of our Union political parties were almost unknown, therefore no prejudiced party voice was heard to condemn him.

The citizens of New-York presented him, through their corporation, with a congratulatory address and the freedom of the city. . He was

also desired to become a member of the Society of the Cincinnati, but declined. From the tenour of one of his letters written at this time, we perceive that it had been his intention, after a return to the United States, to resume the practice of his profession. This determination he was prevented from acting upon by the offer of Congress to confer upon him the office of secretary for foreign affairs. This office was, without doubt, the most important that could be held under the old confederacy. The secretary conducted all foreign correspondence, as well as that with the separate states; through him passed all instructions to ministers abroad; it was his duty to prepare plans of treaties, and to make reports to Congress on such subjects as they desired. He had the right of being present at the meetings of Congress, and of laying before them such information as he considered necessary. This office had been occupied by Chancellor Livingston, by whom it was resigned. On his resignation Congress requested him to hold the office until the election of a successor. With this request he complied for a time, but vacated the office definitively soon after, thinking that there was no present prospect of his being replaced. Congress had five times appointed a day for the election, which was as often postponed. This embarrassment arose from the difficulty of finding a proper

person to fill the office, and was not removed until news was received that Mr. Jay was on his return, when he was immediately elected. For some time he declined the office, not because he was unwilling to serve his country when it was absolutely necessary, but that he considered the time was past when it was incumbent upon him to take such service to the prejudice of the duties and comforts of private life. His own property was to be attended to; he was desirous to enjoy the society of those friends and relations from whom he had been so long separated. Congress then sat at Trenton, and it was thus impossible for him at once to attend to both public and private duties. Besides, the appointment of the clerks in this foreign office was in the hands of Congress, and he was unwilling to repose confidence in those who had not been chosen by himself. While the matter was thus in uncertainty, he was elected as delegate to Congress from his native state. It was soon discovered that Trenton was not a fit place for holding the meetings of that body, and on the 23d of December, 1784, they adjourned to New-York, giving, at the same time, permission to Mr. Jay to appoint the clerks requisite for carrying on the business of his office. Both his objections were now removed, and early in the following year he entered upon his new duties. These duties, in themselves sufficiently arduous, were increased by

the attention necessary to bring up the business of the office, to which, for two years, there had been no head.

The first report which Jay made to Congress in the capacity of secretary for foreign affairs was one asking the passage of a resolution rendering foreign consuls amenable to the laws of the land, bearing upon crime and debt. This subject had been called up by a petition requesting Congress not to recognise a Swedish consul who was at that time in debt to citizens of America. Mr. Jay's resolution was passed. We next find him laying before Congress the account of a voyage of an American ship to China; a subject that was at that time thought of sufficient importance to be communicated to the assembled states, and we find that body passing a resolution approving the voyage, of which a detailed account had been presented to Mr. Jay by the supercargo of the ship.

The State of New-York was at this time governed very little to the satisfaction of a large proportion of the people, and Mr. Jay was solicited by many of his friends to become a candidate for the office of governor. This invitation he refused, and gave the reason for such refusal in a letter to General Schuyler. In this he states that he was well convinced that the office of governor was more lucrative, more honourable, and less laborious than that which he held, but that he had

been well treated by Congress ; that he possessed the confidence of that body ; that his gratitude was owing to them for many favours ; and that “ it was his deliberate opinion, that a servant should not leave a good old master for the sake of a little more pay or a prettier livery.”

We are now about to record what must have been to Mr. Jay one of the most gratifying events of his life. It will be recollected how long and how fruitlessly he had negotiated with Spain ; with what indignity he had been treated ; and that he had never even been recognised as an ambassador. He was now to resume this negotiation in his own country ; to play the part, not of the suppliant, but of the supplicated ; to confer about a treaty, the terms of which he held in his own power ; for, by the treaty of 1783, the navigation of the Mississippi and the possession of its eastern shore had been guarantied to the United States. Spain now found that it was necessary for her own interest to make an alliance. We accordingly find her sending an ambassador, the forms and ceremonies of whose reception by Congress were dictated by Mr. Jay, who, as holding a seat in that body, was one of those who, as sovereigns covered and sitting, received the envoys of a foreign power. Mr. Jay seems from the first to have had no great hope that a treaty would result from this negotiation, and his anticipations were realized ;

for the disputed question of the navigation of the Mississippi presented difficulties which could not be overcome.

On the 7th of September Mr. Jay was authorized by Congress to break seals and examine letters passing through the postoffice; this power was given him, that he might examine the instructions given to the commanders of posts within the United States which were not yet evacuated by the British.

On the 13th of October Mr. Jay made a communication to Congress, informing them that war had been declared upon them by Algiers. In this letter he gives it as his opinion that this declaration was no great evil, as it would consolidate the states in a common cause, and prove a nursery for seamen. The communication was referred back to its author for a report on it. He then recommended the arming, at the public expense, of all vessels trading to the Mediterranean, and the building by government of five vessels of war. This recommendation was not acted upon, on account of the weakness of the government.

The next occurrence in Mr. Jay's life was one which was productive of no little annoyance to himself, while, at the same time, it convinced the public how pure were his motives, how upright his actions in every case. It was a long newspaper controversy produced by an attack on Mr. Jay by

Lewis Littlepage, a young man who had been treated with exemplary kindness by him, and who had rewarded that kindness by misrepresenting his motives and actions. Littlepage had so far succeeded in his machinations as to produce a coolness between Jay and some of his friends. It only remains for us to say, that the course Mr. Jay had taken towards Littlepage was fully justified, although, at the same time, we think that it would have redounded equally to his credit, and been more consistent with his dignity, had he taken no notice of the attack when made, and let it have been refuted by the general tenour of his actions. He, however, seems to have considered it due to his reputation to refute the charges that had been brought against him; and from the tenour of his letters to his friends, his feelings seem to have been irritated by this first public attack upon his character.

In 1785 a society was formed in New-York for "promoting the manumission of slaves." Of this society Mr. Jay was elected president, and found time to fulfil its duties, notwithstanding the pressure of other business. By this election he was given an opportunity of publicly declaring the sentiments he entertained towards slavery. He had, at the time of the adoption of a constitution by New-York, desired to form some plan for the abolition of slavery in that state, and seems always

to have considered that such a course was to be supported as well on grounds of political expediency as of moral right. In his situation as president of this society, Mr. Jay addressed a memorial to the Legislature of New-York, praying that they would prohibit the exportation of slaves from that state. A few years afterward he opened a correspondence with similar societies in France and England. He continued president of this society until appointed chief-justice of the United States, when he resigned, thinking that cases might be brought before him in his official capacity having a bearing upon the objects of its association.

Until the year 1786, the negotiation between Mr Jay and the Spanish minister had been going on, without having approached any nearer to the adjustment of the difficulties between their respective nations. Congress had ordered Mr. Jay to insist upon the free navigation of the Mississippi. The court of Spain had as positively commanded their minister not to permit such navigation, or to give up their claim to the eastern shore of that river, possession of which had been guarantied to the United States by their treaty with Great Britain.

In this state of the affair only two courses were left to the United States, either to secure their claim by force of arms, or to let the matter remain totally unsettled.

They therefore, on the 3d of September, called upon their secretary, who, in a speech which is recorded upon the minutes of Congress, gave his opinion on the subject. After premising that Spain was able and willing to afford us many commercial facilities in case of a treaty, or that, if war were determined upon, she could injure our commerce, as well by exciting the hostility of the Barbary powers as by her own arms; that the Union was weak; that many of the states would be unwilling to support a war undertaken for such a cause: he went on to state, that the course of the United States should be to make a treaty forbearing their right of navigation for 80 years, thus closing the matter in dispute for the present, but leaving an opening for future consideration.

This speech was very disagreeable to the Southern members, to whom the navigation of the Mississippi was now a matter of importance, and they unanimously supported a resolution to deprive Mr. Jay of the power that had been given him to make the terms of a treaty. This resolution was as unanimously, and in greater numbers, opposed by the Northern delegates, who saw and approved of the steady policy of Mr. Jay through the whole negotiation. They knew that he had been unwilling to surrender that navigation unless in exchange for the recognition of independence. After independence was secured, the delegation

from Virginia had proposed and carried a resolution, authorizing the surrender of the right of navigation of the Mississippi south of the thirty-first degree of north latitude, in exchange for a free navigation of the river above that point ; and now we find a party in Congress, in which the delegates of that state were found, trying to disgrace their secretary, because he proposed a measure leaving that right in abeyance, a right of the importance of which they now, for the first time, became sensible.

The Spanish minister refused to come into any arrangement even implying a surrender of the right on his part, and the negotiation was ended by his return to Spain.

On the 30th of November, Mr. Jay, at the request of Congress, presented a report on the following subjects. Many posts within the limits of the United States were still held by British troops, in defiance of the terms of the treaty which provided for their immediate evacuation. Much uneasiness was caused by this violation of the treaty, and Congress directed their minister at London to remonstrate with the British government. The British ministry replied by stating that there was another article in the treaty, stipulating that "creditors on either side should meet with no lawful impediment in the collection of debts," and that this article had been violated by the Union, inasmuch as there were in many of the

states laws preventing the recovery of British debts.

The report of Mr. Jay on this subject was characterized by fairness and honesty. He felt it his duty to point out, that in many of the states the laws prevented the recovery of English debts; he, on the other hand, asserted that many slaves, taken under British protection during the war, had not been returned to their masters according to the terms of the treaty; this course of England, he showed, might be vindicated on the ground of moral right, but that the provision of the treaty might, and ought to be satisfied, by her paying to the former masters of the slaves an equivalent in money. He, however, made it clear that the United States had been the first to violate their faith, and advised Congress to desire the states to repeal their laws on the subject of foreign debts. He at the same time proposed that their minister should be required to demand payment for the negroes, and the evacuation of the posts the moment these laws were repealed.

Congress accordingly required the states to repeal these laws, but under the confederation no power to enforce the demand existed.

These reports of Mr. Jay form a memorable epoch in the history of parties in the United States. The stern and decided expression of his views of moral right in respect to the abducted slaves, and

the laws opposing obstacles to the collection of foreign debts, were unpopular in the extreme with the Southern states. The better informed had, indeed, no argument to advance against the correctness of his views, but the less intelligent were influenced by their passions ; and although the views thus expressed by Jay became the principles of settled action under the administration of Washington, and were, as we shall see, carried out by Jay himself in a treaty with Great Britain, ambitious men saw that the popular feeling was such as would enable them to build an opposition upon it as a basis. It may, indeed, be questioned by many, whether offering liberty to slaves be a legitimate mode of warfare ; none, however, can deny, that they may be received as soldiers with no more moral wrong than the deserters of a hostile army. In such a case, it will be a matter of negotiation whether they are to be paid for at a peace or not ; but honour will forbid that they should be returned to their masters. In respect to debts due to an enemy's subject, it was once the custom of war to confiscate them to the use of the government ; but the progress of humane feeling, by which the miseries of warfare have been gradually lessened, now forbids such means of annoyance. That individual debtors should avail themselves of a state of war to avoid the payment of their just debts, is a pretension which has never

been maintained by any nation ; and the laws passed by many of the states for this object are the foulest blot which has ever fallen on American honour.

CHAPTER VI.

Jay's Opinions of the inefficiency of the Confederation.—Origin of the Federal Party.—He is elected a Member of the Episcopal Convention —Acts of that Convention.—Convention at Annapolis.—Jay's Correspondence with Washington in relation to a Federal Union.—Convention at Philadelphia, and adoption of the Federal Constitution.—Jay is associated with Hamilton and Madison in the publication of "The Federalist." — The Doctors' Mob in New-York.—State Convention in New-York.—The Federal Constitution goes into effect, and Jay is named Chief-justice of the Supreme Court.—He holds the first Court.—His Charge to the Grand Jury.—He is nominated as candidate for Governor of the State of New-York, and his Election is defeated.—Public expressions of Dissatisfaction at that result.—Jay's Decision that a State might be sued.—Amendment of the Constitution in consequence.—Reflections on that Decision.

THE weakness and inefficiency of the general government had long been a source of anxiety to Mr. Jay ; he saw that, so long as no bond but the confederation existed, the United States could never

rise to the condition of a great nation. Under it he perceived that they were able to make no war without unanimous consent, to observe no treaty when made, and that they were even not justified in getting a loan, because they could provide no certain means for its honest payment.

These opinions of Mr. Jay were certainly unbiased by private considerations, for he held by far the most honourable and most lucrative office under the existing government.

These opinions he enlarged upon, and, in his correspondence, forcibly presented them to the notice of many distinguished men of the day. In fact, at this time many began to perceive the inability of the general government to sustain itself, and as many were the plans proposed for its reconstruction or amendment. It was, as the Father of our country observed, a government founded on too good an opinion of mankind. Those who saw its deficiencies and advocated its amendment took the name of Federalists. Mr. Jay was a member of this party, and always continued so.

About this time Mr. Jay had been elected a member of an Episcopal convention, one of whose objects was to secure the consecration of American bishops by those holding that station in England. A communication requesting this favour had been transmitted, and a reply was received granting the request, provided some speci-

fied alterations were made in the liturgy. The Convention appointed a committee to draw an answer to this communication. Mr. Jay objected to the proposed answer as too submissive; he was then placed on the committee himself, and framed an answer which was approved of. By his consent to serve in this convention, he manifested that regard for the observances of religion, and that piety which had characterized him from his early years. This trait in his character is one that may be referred to as the mainspring of his actions in many cases.

In January, 1786, the delegates from Virginia to Congress had proposed a convention of the states at Annapolis, to take measures to secure a uniform system of commercial regulations among the states, and this proposed measure is referred to by Mr. Jay in his letters as the first act taken to bring about a better state of affairs. The convention consisted of the delegates of only five states, probably because the measures it proposed were too limited to excite general interest. These few delegates, however, recommended that another convention, to revise the articles of confederation, should assemble in Philadelphia the next spring.

In a letter to General Washington, written in January, 1787, Mr. Jay discusses the plan of a new government; he states that experience has proved that the executive power ought not to be

vested in a large body ; that in such a body secrecy was impossible, promptness not to be expected, and responsibility so divided that a sense of it could not be counted on ; that therefore it was necessary that there should be one executive individually responsible. He did not wish this officer to be a king, unless as a last resource ; but thought that he might be elective, and styled a governor-general. He also proposed the division of the Legislature into an upper and lower house ; and thus shadows forth some of the features of the constitution that was adopted.

In General Washington's reply, he admits the conclusiveness of the arguments of Jay, but doubts whether the country is yet ripe for the measure, and whether, even if carried into operation, the new government would be able to withstand the opposition of those who were sticklers for state sovereignty.

In the succeeding February Congress recommended a Convention, and it accordingly assembled in Philadelphia. Mr. Jay was not a member of it, probably because other duties detained him in New-York.

On the 17th of September the new Constitution was agreed upon. This constitution was not exactly what Mr. Jay had desired, yet it was so far superior to the old constitution, that he immediately enrolled himself as one of its most active, elo-

quent, and influential advocates and defenders. He joined with Hamilton and Madison in publishing the *Federalist*, a paper as well known as his own name. In the successive numbers of this publication the new Constitution was explained; the bearing it would have on points of state rights clearly pointed out; and the instrument defended from the attacks of those who, influenced by the possession of state offices, desired no instrument to go into operation that would curtail their powers.

Mr. Jay's labours in behalf of the new Constitution were interrupted by an unhappy accident. The surgeons of New-York at this time were imprudent in not sufficiently regarding the prejudices of the multitude on the subject of dissection. They pursued this branch of their studies too openly: the passions of the people were excited, and finally broke out into fury on seeing a human arm suspended from the window of one of the students of medicine. A mob arose; several of the physicians were confined in jail to protect them from its vengeance; but the mob were determined to take the law into their own hands, and again assembled for the purpose of breaking open the prison. Mr. Jay being informed of this, seized a sword, and, accompanied by some others, rushed to prevent their purpose; they were attacked, and a stone thrown by one of the mob wounded Mr.

Jay dangerously in the temple, and for some time confined him to the house. When he recovered he published in a pamphlet an address to the people, desiring them to support the new Constitution on the following grounds : first, that a better plan could not probably be obtained ; secondly, that, if obtained, it would be too late ; and, thirdly, he called their attention to what their situation would be if, after rejecting this constitution, they could obtain no other. The good sense, correct statements, and forcible arguments of this paper soon procured for it extensive circulation ; and, although published without the name of its author, many of his friends attributed it to the right source.

Mr. Jay was elected one of the members of the Convention called together by the people of New-York for the purpose of accepting or rejecting the new Constitution ; out of 57 members only 10 were of the same opinion with Mr. Jay. When assembled, the Convention was for three weeks occupied in debating upon the Constitution ; both sides gave their opinions, but they did not test the strength of their parties by a vote. Mr. Jay offered a motion to accept the Constitution, and to recommend such alterations as should be deemed expedient. This resolution, when modified so as to read on condition of such alterations, was passed, and was finally modified by inserting in place of "on condition," the words "in full confidence."

To Mr. Jay the Convention assigned the duty of preparing a letter recommending these amendments to the other states, conscious that, although opposed to them, he would discharge the duty fairly and honestly, if not feelingly.

In the City of New-York, a majority of whose inhabitants were Federalists, the news was received with every demonstration of public joy; and applauding crowds testified their approbation of the course of their delegates, while, at the same time, they rejoiced at the ratification of that constitution, under the guidance of which the country was to proceed onward in its course of prosperity. The feelings of Mr. Jay must have been as joyful as those of the multitude, and more lasting; for, ardent patriot as he was, he had long seen the want of this constitution; long, and at last successfully, advocated it.

Measures were now taken for carrying into operation the new government; a president, vice-president, and Congress were elected. General Washington was unanimously called to the former office, and preparations were made for his reception in New-York. Mr. Jay, fearing that these would not be completed in time, wrote to General Washington, asking him to consider his house as his home, and thanking him for the pleasure he had afforded the country by his acceptance of this high office.

Washington was inaugurated in New-York on the 30th of April, 1789, and immediately entered on the duties of his office. The president entertained the highest opinion of the talents and patriotism of Mr. Jay, and manifested it by desiring him to accept such office as was most agreeable to him, and in which he could best display his abilities. His early education, his after career, and the peculiar bias of his mind, combining with the conviction that in it he could be most useful, led him to choose the office of chief-justice of the United States. His post as secretary of foreign affairs was vacated by the formation of a new government; but, at the request of Washington, he performed the duties of secretary of state until Mr. Jefferson arrived from France.

(On the 3d of April, 1790, the chief-justice held at New-York his first court. In his charge to the jury he thought proper to remind them of the situation in which they were placed, and brought before them some of his own thoughts upon the character, mode of formation, and uses of the new government, and also the duties required from the citizen by it. During this month he made a circuit through the New-England states, and was everywhere received, not only with respect, but with honour.) Institutions of learning conferred their degrees upon him; local governments gave him public receptions. In the fall he again rode

a circuit, and, while so doing, manifested the confidence reposed in him by the first man in the country, by writing to the president, proposing to him subjects to be brought before Congress at their ensuing session. Among these, he recommended measures for the improvement of our intercourse with the Indians; laws for the coinage; the preservation of old and establishment of new fortresses; and also the inspection of articles of export. The president replied by requesting farther communications, and indicating the way of forwarding them so that they might be received.

During the year 1791, the time of the chief-justice was wholly taken up by attending to his official duties. The charges of the chief-justice to juries during this year were generally well-written essays, in which he laid down moral and political principles, and proved the necessity of conforming to them.

During the year 1792 much dissatisfaction was expressed by many of the inhabitants of New-York at the course pursued by their governor; it was therefore determined to oppose him, and, if possible, prevent his re-election. It was necessary to decide upon an opposition candidate, and Mr. Jay was honoured by the choice. His nomination was first decided upon at a meeting of the citizens of New-York, and was soon approved of

by the opposition throughout the state. Mr. Jay accepted this nomination, in conformity with the opinions he had expressed when rejecting a like nomination some years before. He thought that the time had now arrived when he was called upon by a prevailing discontent, and by a general conviction of the insufficiency of their ruler, to accept that office, the reform of which he was the most capable to perfect. He could have been actuated by no motives of private benefit in accepting this nomination; for, if he were elected, he would be obliged to resign an office equally honourable, less dependant for its permanency on mere popularity, while, at the same time, it was more lucrative, and more congenial to his inclinations. The friends of the party in power roused themselves to combat this powerful opposition; and, as one means of doing so, attacked and exaggerated many of the actions and well-known opinions of Jay. They, in a state, the majority of whose inhabitants had been antifederalists, attacked his course, and misrepresented his motives in regard to the adoption of the Constitution. They tried to carry into politics his opinions on the subject of slavery, and incited against him slave owners, by declaring that, if in power, he would rob them of their slaves who were fit to labour, and oblige them to educate those who were yet too young to work. Of these attacks and insinuations he took no pub-

lic notice ; but his private feelings were excited by the turning against him and the active opposition of his old friend Chancellor Livingston. A letter was addressed to Livingston, in one of the papers, couched in a high tone of feeling ; many of his partisans spread the opinion that this was a production of Mr. Jay ; and one of them, in the same newspaper, replied to Mr. Jay as its author. He publicly disavowed it as his production.

Mr. Jay was absent from the state during the election. His letters during this period show how little his feelings were interested in the result ; even to his wife he never alludes to the subject, except when forced, and declares that he is perfectly resigned and unconcerned about his success or defeat.

Although Mr. Jay had, without doubt, a majority of votes, he was not returned as elected, for reasons which we shall proceed to explain. By law, all the ballots were to be transmitted by the sheriffs of the different counties to a committee appointed by the Legislature to canvass them. This committee, named by the party in power, took advantage of an informality in the appointment of sheriffs. The sheriffs had been in the habit of performing the duties of their office beyond the time for which they had been appointed, and until it was found convenient to nominate and induct into office a successor. Custom and expediency alone,

not positive law, had sanctioned this practice. The committee on elections so decided, and threw out the votes of those counties which were brought in by sheriffs holding office according to this custom. By taking advantage of this and some other slight informalities, they reduced Mr. Jay's votes from a majority to a minority, and declared Mr. Clinton elected governor of the state. The minority of the committee entered a protest against these proceedings. An intense public feeling was excited throughout the state; and those were not wanting who advised Mr. Jay to assume the office of governor, assuring him that he would be supported in such a course by a majority of the inhabitants of the state. Happily for the community, he was no demagogue ambitious for party superiority and public power, and therefore refused this advice, considering that it was the duty of himself and all good citizens rather to suffer a present wrong than to right themselves by violence.

In February, 1793, the Supreme Court was held at Philadelphia, and a case perfectly novel, and interesting from its bearing upon the new Constitution, was brought before it for decision. The case was this: an inhabitant of one state sued the government of another state. The state so sued refused to appear, on the grounds that, being sovereign and independent, it could be brought before no tribunal. One of the principal objec-

tions to the new Constitution had been that, when carried into effect, it would impair state rights and do away with state sovereignty. It no doubt did this in some degree, and it was now to be seen whether the officer charged with that duty would carry into effect such a provision in the face of a strong opposition. But Mr. Jay had firmness enough to avow any opinion, provided he knew it to be consistent with his duty and his principles. He therefore, on the following grounds, decided that the State of Georgia could be sued. He admitted that the state was sovereign, and then inquired who exercised the sovereignty; it was not the governor, it was not the legislature, but the people; the people were the sovereigns: therefore it was not an individual suing a kingdom, but one sovereign contending against others; it was a contest between equals. He declared that all admitted that one city might sue another; one state bring an action against another state; then why not one citizen, who exercised a portion of the state sovereignty. He admitted that it would be impossible to sue the United States, because there was no superior power to enforce a decision when given; this was not the case with a state, to whom the United States was a superior.

By this decision great jealousy was excited in the different states, great alarm for the deprivation of their power. Their legislatures therefore took

measures for amending such portions of the Constitution as gave authority for this opinion of the chief-justice, and at the ensuing session of Congress the amendment was agreed to.

There can be little doubt that the decision of Mr. Jay was not only consistent with the existing provisions of the Constitution, but was founded on strict justice. That the general government should, by an amendment of the Constitution, remove the ground for popular clamour, was perhaps politic and expedient, but the strength of the Union has been manifestly impaired by the decision. It is within the limits of probability that acts may be committed by some one state against the citizens of another, which, if there be no tribunal possessed of power to afford redress, may lead to reprisals and involve actual hostilities. We might, however, have expected that, on this occasion, the chief-justice would have emancipated himself at once from the shackles of the old feudal doctrine that "the king can do no wrong." Had he boldly declared that the government of the United States itself could be made the defendant in a civil action, in consequence of the source of power having passed from a monarch to the people, he would have met the difficulty in its very origin, and would have removed at once the only legal oppression to which the citizens of the United States are now subjected.

It seems an anomaly, that, in a government founded upon the principle of popular sovereignty, the individual members of the ruling body should have no legal remedy for the oppression of their own servants, no means of obtaining a judicial decision in respect to disputed accounts.

The time seems to be at hand when the necessity of affording to the public creditor, whether of the state or of the general government, a remedy by law, and to those stigmatized as defaulters the means of proving their purity in open court, cannot be gainsaid. We may therefore hope for a legislative action on this subject by Congress, which will allow the general government to be impleaded as a defendant in a suit at law, and that this will be imitated by the state legislatures.

CHAPTER VII.

Question of Neutrality in the War between France and England.—Washington's Proclamation.—Arrival of Genet. — Attempt at fitting out French Privateers.—Jay's Charge to the Grand Jury at Richmond. — Aggressions of Great Britain. — Washington determines to send a special Minister to England, and selects Jay for the purpose.—Jay proceeds to London.—His Negotiations with Lord Grenville.—He concludes a Treaty.—Loud Dissatisfaction expressed by the anti-Federal Party.—Treaty ratified by the President and Senate.—Its Provisions approved by the House of Representatives.—Merits of Jay's Treaty, and comparison of it with that negotiated by Mr. Monroe.

OUR foreign relations now began to excite great attention. It became necessary for the government of the United States to decide upon its course with regard to neutrality with all, or a war with some of the powers in Europe. The French king had been dethroned, and republican France appealed strongly to the sympathies of America. If the latter assisted France, she must have warred against England; and many would have appro-

ved of such a measure, impelled by ancient animosity against the latter country, and hating her, not only for this reason, but because she had not fulfilled some of the obligations imposed upon her by the late treaty. A strong French party was formed, and Washington found it necessary to issue his celebrated proclamation of neutrality. When his opinions were thus publicly declared, his decision was arraigned, the purity of his motives was questioned by that party which had, as anti-Federalists, been opposed to him, and who now arrayed themselves on the side of France. These dissensions were fomented, these hostilities to government encouraged, by the arrival in the country of Genet, who was openly the minister of France, secretly an agent to stir up this country to a war with England. This man, on his arrival at Charleston, distributed French commissions; and when he reached Philadelphia, with utter disregard of the laws, and in despite of the president's proclamation, proceeded to fit out French privateers at various ports, thus proving by what a strong party he was supported. Mr. Jay, in his charge to the grand-jury of the Circuit Court of the United States then assembled at Richmond, alludes to these troubles, and declares it to be their duty to present for prosecution those who violated the national neutrality. When Mr. Genet, the French minister, was informed that force would

be used, if necessary, to prevent a privateer he had equipped from proceeding to sea, he declared his intentions of appealing from the president to the people, and thus of executing his intentions by violence. Some of the papers defended this course, and encouraged this insult to the Father of his Country. Mr. Jay and Rufus King published a communication in one of the papers, stating that Mr. Genet had avowed such intentions; they were, in consequence, bitterly assailed by those who sided with the French interest.

These dissensions were increased by the acts of England; and, to the animosity already excited against her, she added fresh force by her vexatious interference with American commerce. She issued an order, by which it was rendered lawful for all vessels carrying grain to France to be seized and carried to England, where the cargoes might be purchased for the use of government. This order was followed by one authorizing the capture of all vessels carrying supplies to French colonies. Both these edicts fell heavily on the commerce of the United States. The right of searching American vessels, and impressing from them seamen called English, was insisted upon and practised. Congress viewed these measures with alarm and distrust; a portion of the nation protested against them in terms equally disrespectful to their own government and that of England; meas-

ures for retaliation were agitated by both, and, in the mean time, an embargo for thirty days was laid upon the American vessels then in port and bound for foreign countries. (General Washington, whose measures were then supported only by a minority in Congress, was opposed to all hesitating policy, and determined either to obtain honourable peace or wage open war. He wisely thought the former course as consistent with the honour, and more advantageous to the interests of his country. He was assailed in this course by party enmity, by political opprobrium; yet, in despite of all this, in despite of the loss of popularity, he determined, with his usual wisdom, to make one more effort for peace. He resolved to send an envoy to England, to remonstrate with the British government, and urge upon it the advantages of the preservation of peace with America. He selected Mr. Jay for this important office, and thus publicly manifested that faith and confidence which he had long privately reposed in him. The nomination of Mr. Jay was opposed in the Senate, but finally approved of by a vote of eighteen to eight.)

A few days after Mr. Jay's appointment, the House of Representatives desiring, as they were not able to prevent his mission, at least to do away all the good effects of it, passed a resolution prohibiting the importation of all articles manufac-

tured or grown in Great Britain. If this resolution, so injurious and insulting to England, had gone into effect, all hope of accommodation would have been vain; but the bill was thrown out in the Senate by the casting vote of the vice-president. These measures were not confined to public bodies; but Jacobin clubs were organized, Jacobin dinners eaten, Jacobin processions marched through our streets; and every measure was taken to increase the popular fermentation, and discredit and disgrace the president. He, however, stood firm to his resolve; and the only effect these measures had on him was to induce him to urge more quickly the departure of Mr. Jay. That gentleman accordingly set sail on the 12th of May, and arrived at Falmouth, accompanied by his eldest son and secretary, after a short passage of twenty-six days.

Immediately after his arrival in London he had an interview with Lord Grenville, the secretary for foreign affairs, who had been commissioned to negotiate with Mr. Jay. The negotiations were carried on with good feeling and friendship between the two commissioners, although such was far from being the state of the case between the two nations that they represented; and Mr. Jay and Lord Grenville negotiated in familiar conversation, and not according to the usual rules of diplomacy. They were both actuated by a desire

to explain clearly what terms they were willing to grant, and what concessions were demanded by either country.) Mr. Jay's instructions bound him strictly in two respects. One was, not to enter into any treaty inconsistent with American agreements with France; the other, to conclude no treaty of commerce, unless it provided for a trade in American bottoms between that country and the British West India colonies. He was also requested, if possible, to secure an indemnity to American merchants; to make a general treaty of commerce, and to settle all disputes arising out of the existing treaty of peace. Mr. Jay perceived that the greatest difficulty would lie in obtaining the first of the last-mentioned provisions of the treaty. He knew that, unless it were obtained, American merchants would, and with justice, too, demand and obtain war; he knew it would be humiliating to Britain to give up vessels captured by her orders, to acknowledge to all that she was in error when issuing such decrees. He therefore laboured so to form this portion of the treaty that the wording of it should be inoffensive, its conditions not humiliating to England, while seeking to secure justice to his own country; and he succeeded. Its conditions were, that a mixed American and English commission should assemble at London, which, on proper proof, should award a recompense for all American vessels illegally cap-

tured under colour of British orders and commissions. The disputes growing out of the treaty of peace were chiefly these: America demanded payment for the negroes carried off, and an evacuation of posts held by the British in the United States: England required that laws should be passed by Congress, authorizing and facilitating the collection of British debts.

Mr. Jay found that England put such a construction on the words of the treaty as to enable her to refuse payment for the negroes. He was therefore obliged to abandon this claim, and could not, with justice, prosecute the other, without, at the same time, making provisions for securing the claim of England on his own country. He therefore agreed to the appointment of commissioners, who were authorized to secure the collection of such debts as could not otherwise be collected by the ordinary course of justice; England, on the other hand, agreed to evacuate those posts within the United States still garrisoned by her troops. Mr. Jay also agreed to authorize another commission, which should award to England indemnity for vessels captured by French privateers fitted out in American ports.

All difficulties were thus adjusted, and it remained to agree to provisions for the future intercourse between the two countries. Arrangements were therefore made regulating the intercourse

between the United States and Canada, and an article was inserted providing for the appointment of commissioners to survey and fix disputed boundary-lines. Congress had proposed to sequester British debts as one means of annoyance. Mr. Jay considered that such a measure would have unnecessarily increased the hardships of war, and therefore, with the concurrence of Lord Grenville, inserted an article forbidding such confiscation on either side in case of a future war. Mr. Jay, actuated by similar reasons, wished to insert an article forbidding the employment of privateers by either party; but Lord Grenville refused his consent to it. In pursuance of his instructions, Mr. Jay now turned his attention to securing to the United States a trade with the British West India Islands. He succeeded in gaining such a permission, but it was accompanied by certain restrictions, the chief of which were, that the trade should be carried on in vessels of no less than seventy tons, and that the United States should bind themselves not to ship any West India product, cotton included, to any part of the world. The first of these restrictions was cavilled at at the time of the treaty, as tending, in effect, wholly to destroy the trade; but in the end the very restriction turned out to be a source of advantage. Every New-England farmer on the coast became master and owner of a vessel; he cultivated his

farm in summer; and in winter, loaded with its produce or that of the forest, sailed for the West Indies. Thus the trade was carried on largely and profitably, and became the nursery for a peculiarly hardy race of seamen; those seamen who afterward fought so well the naval battles of their country. To the second restriction, it seems singular in our day that consent should have been given by any American; but at that day cotton was not generally known to be an American staple, although a small quantity had made its appearance in the market of Charleston. Mr. Jay also demanded and obtained the insertion of an article authorizing American trade with the East Indies, and a commerce perfectly free and reciprocal between the two nations themselves. Provisions were also inserted in the treaty declaring in what manner the two nations would construe the law of nations bearing upon certain cases. The articles respecting the West India trade and the settlement of difficulties were to be permanent, the rest of the treaty was to endure for twelve years.

This treaty was signed on the 19th of November, 1794, and the terms secured tended greatly to increase that reputation for talent that Mr. Jay already possessed. Lord Grenville took an early opportunity of conveying to Mr. Jay his opinion of the sincere, open, candid, and honourable man-

ner in which he had conducted the negotiation; and Mr. Jay, in a letter to the Secretary of the Treasury, states, that the great and almost irreconcilable difficulties had only yielded to the openness and honesty of both parties, and their desire to preserve peace. He also took occasion to communicate to James Monroe, the American minister at Paris, the fact that the treaty was concluded; that it was in no respect at variance with the existing treaty with France; and that he would soon make known to him, in confidence, its chief provisions. Mr. Monroe wrote in answer, explaining the uneasiness excited in France by the news of the treaty, and observed that nothing but a copy of it would satisfy that government. The recollection of French interference in the treaty of peace was too recent for a farther manifestation of it to excite any surprise in Jay's mind; but he was resolved, as before, not to submit to it. He therefore replied to Mr. Monroe by saying that it was altogether inconsistent with the honour and dignity of the United States to make known to any foreign power the conditions of a treaty, before that treaty was generally published and ratified.)

The delicate state of Mr. Jay's health induced him to defer his return to America until the spring.

Even before the conditions of Mr. Jay's treaty were made known, the large French party in the United States strongly objected to it, knowing, as

they well did, that an honourable treaty with England would end all hopes of war with that country. They therefore successfully exerted themselves to raise an opposition, on the general grounds that treaties with any monarchy were incompatible with republican institutions.

Such a treaty, they alleged, was unnecessary to the United States, especially with a monarchy that had always proved itself so inimical as England; they called upon the people by their gratitude for the French aid, their abhorrence of English tyranny; they stigmatized Mr. Jay as a traitor to his country, a British emissary bought with British gold. Public meetings were called to express their dissatisfaction with the terms of the treaty; a party press fulminated its thunders against it; tumultuous mobs assembled in the streets, threatening those who favoured it; and so far did this factious and opposing spirit proceed, that a mob in the City of New-York, that city which had been always first to honour Mr. Jay, marched to his residence and burned the treaty before his door. Notwithstanding these expressions of popular opinion, the Senate advised the president to ratify the treaty; then were still stronger measures resorted to; then did the mob more strongly strive to turn from his course him on whose will alone the conclusion of the treaty now rested; but Washington was not the man to be turned from a

deliberate conviction by senseless clamour ; he was not to be diverted from his course by the fear of losing his hitherto unbounded popularity : he persevered in the line of conduct that he had laid down as most conducive to the welfare of his country, and he signed and ratified the treaty. Only one expedient was now left to those opposed to it ; this was, to persuade the House of Representatives to refuse to pass the laws which were required to give effect to a treaty that had received such ratification as was sufficient under the Constitution to make it the law of the land. A motion was introduced, declaring it to be inexpedient to pass such laws : the house was equally divided on the question, and the casting vote of the speaker was all that carried the appropriation necessary for fulfilling the conditions of the treaty. The house was thus preserved from an act which would have been a gross breach of national faith, and would have dishonoured that legislative body, disgraced the country, and inflicted a direct censure on the pure and godlike Washington.

The majority of the citizens of Jay's native state did not partake of the feelings to which we have referred, as was manifested by the result of the election for governor ; but the opponents of the treaty, if not the most numerous, were the most noisy, and, in addition, arrogated to themselves the

office of being the sole expounders of the popular will. It is somewhat mortifying to those who maintain with truth and sincerity republican principles, to see the ease with which noisy demagogues can in some cases abuse the public ear. Jay had been among the earliest movers of the opposition to Great Britain; had perilled himself in the very van of the projectors of armed resistance; and would, in case of the success of the British arms, have been a certain martyr in the cause of freedom. In his negotiation with Spain, and for the general peace, he had maintained the honour of his country with success, when Congress itself had been willing to sacrifice it to the pleasure of an imperious ally. He had held the highest office which the confederation could bestow, and had yet willingly joined in the efforts for forming the federal Constitution, by which he was sure to fall into a subordinate position. Yet, in spite of all these proofs of the purity and sincerity of his patriotism, there were those found who could venture to charge him with being purchased by British gold, and, what was still more extraordinary, others who could honestly believe the charge.

The merits of Jay's treaty may be best understood by comparing it with that which was negotiated when the commercial provisions it had included expired. The latter treaty was ratified

under the administration of Mr. Jefferson, who had been the loudest of the declaimers against Mr. Jay, and had even descended to personal abuse. The negotiator was Mr. Monroe, who had interfered from Paris with the mission of Jay.

In Mr. Monroe's treaty no indemnity was allowed for the depredations of British cruisers on American commerce. In Jay's a stipulation was obtained for a joint commission, which awarded to the merchants of the United States upward of ten millions of dollars.)

By Jay's treaty the right of trading with the British possessions in India was clogged with the sole condition that the return cargo should be landed in the United States; Monroe admitted, in addition, that the outward voyage should begin in the United States.

Monroe surrendered the right of trading in American vessels between Europe and the colonies of all nations at war with Great Britain, and was unable to obtain a renewal of the privilege of trading with the British provinces contiguous to the United States, thus consenting to our exclusion from the outlet of the lakes, the use of which might have otherwise been claimed as a natural and indefeasible right.

The mutual right, reserved by both governments in Jay's treaty, to lay indiscriminating and alien tonnage duties, operated wholly to the advantage

of the United States ; the principle of reciprocity introduced in Monroe's admitted, in its consequence, British vessels to a participation in trade wholly enjoyed before by Americans.

Monroe, indeed, succeeded in having provisions excluded from the list of goods contraband of war, but Jay had obtained the right of being paid for them in case of their being intercepted.

Finally, under Jay's treaty, a mutual good understanding prevailed for ten years, in consequence of the adjustment, with a single exception, of every point in dispute ; under Monroe's, barely two years of quiet were enjoyed, and it became necessary to resort to a series of retaliatory acts, which finally terminated in war.

CHAPTER VIII.

Jay is elected Governor of New-York during his Absence in Europe.—Appearance of the Yellow Fever in the City of New-York.—Jay recommends a Day of Thanksgiving on its disappearance.—Question in relation to the Appointing Power.—Change in Criminal Punishments.—Law enforcing the Observance of the Sabbath.—Jay is again elected Governor.—Unanimity of Parties on the subject of Defence.—Passage of the Abolition Law.—Jay's Firmness in the Execution of the Laws.—Legislature in opposition to the Governor.—The Question in relation to the Appointing Power renewed.—Jay adjourns the Council of Appointment.—Decision of this Question and its consequences.—Jay is offered a Reappointment as Chief-justice of the United States.—He declines to be a Candidate for re-election as Governor, and retires from Office.

LOUD as were the expressions of disapprobation which were uttered against the treaty made with England by Jay, they did not proceed from a majority of the people of the State of New-York. As a proof of the confidence which was reposed in him, and the unabated esteem of even an in-

creased number of electors, he found, on his return from Europe, that he had, in his absence, been elected governor of his native state.

The election in which he had previously stood as a candidate, and received a majority of votes, will be remembered, as well as the manner in which his election was defeated by a technical objection. The mode in which this suppression of the popular will was brought about had excited feelings of anger and disgust in the minds of those who had on that occasion supported Mr. Jay, and they determined, as soon as possible legally, to elect him to that office which he had been before called to hold by a majority of the inhabitants. Justice to Mr. Jay, as well as their own feelings, incited them to this course, though prudence would have dictated that it was unwise to elect one, the time of whose return to his country was unknown, and with whom the acceptance of the office was optional when returned. But they relied on the once expressed opinion of Mr. Jay of his readiness to serve, and they were not disappointed; he accepted the appointment, and, on the 1st of July, 1795, took the prescribed oath. Jay was thus installed in an office that must to him have been more agreeable than any other in the gift of the people; he was called by a large majority to govern that state, the independence of which he had been a chief instrument in securing; to administer

those laws and be guided by that Constitution which he himself had framed.

Mr. Jay's first act as governor was the publishing of a proclamation directing the measures necessary to prevent the entrance of the yellow fever into New-York. These measures unhappily proved of no effect. The city was desolated by this scourge; but, during its continuance, Mr. Jay, influenced by his sense of duty, remained in town. When the pestilence departed, Mr. Jay issued another proclamation, instituting a day of public prayer and thanksgiving. Conscious that he was not authorized by law to require the observance of such a day, and knowing that all his actions were commented upon by a strong opposing party, he in his proclamation stated that he merely recommended the religious solemnity, and showed that such a thanksgiving was required by public gratitude. His motives were nevertheless assailed; and one portion of his proclamation, advising prayers for the preservation of the life and usefulness of Washington, was commented upon as insulting to those who did not acknowledge that usefulness.

On the 6th of January, 1796, Governor Jay read his first message; in it he declared how highly he esteemed the confidence of his constituents in electing him to such an office, an office the duties of which he pledged himself to perform "with en-

ergy, impartiality, and freedom." He recommended measures of internal improvement; a reform and alteration in the criminal laws; and the formation of establishments for the detaining and punishment of criminals. The sole right of the governor to nominate for office having been denied, he advised the passage of a law defining his power in that respect.

The two houses took measures for carrying into effect all that had been recommended by Mr. Jay; thus proving that their confidence in him had suffered no diminution on account of his negotiation with England. The governor was soon called upon to put in practice the opinion that he had avowed, namely, that he would govern with, and be governed by, impartiality. Governor Clinton had held his station for eighteen years. Every office in the gift of government was therefore occupied by his political friends. Those who had exerted themselves to procure the election of Jay, thought, and, perhaps, not unreasonably, that "to the victors belong the spoils." They desired some reward for their services. They demanded that power in the gift of the governor should be prevented from being turned against himself; but Mr. Jay steadily refused to turn from office on political grounds alone; he inquired not, what were the incumbent's politics, but what was his fitness for the office.

In the ensuing September General Washington published his Farewell Address, in preparing which he had taken the advice of Jay; and in November it became the duty of the governor to call a special meeting of the Legislature for the purpose of appointing electors of a president. While admonishing that body that this was their most important business, and demanded "their greatest care and circumspection," he at the same time took occasion to hold up to admiration the character and actions of the great man by whom the office had lately been filled.

On the 25th of November, 1797, the new state prison was completed. A great change had been made in the criminal law, by which sanguinary punishments were almost abolished. The power of pardoning was vested in the governor, and his sense of duty and regard for the public good often conflicted with his feelings in the exercise of this right. He refused all applications for pardon where he was convinced the sentence was just; and it often required all his firmness to deny the solicitations of the relatives and friends of the criminals, and sometimes even those of the governors of contiguous states. Some of these petitions were based upon the respectability of the connexions or parents of the criminals; but the governor thought that the respectability of the parent was no reason for demanding lenity for the child.

During this year, a bill for the gradual abolition of slavery was again agitated in the Legislature, but that body adjourned without deciding upon it in either way.

In this the last year of his term of office, those opposed to Mr. Jay commenced such operations as were necessary to prevent his re-election. This was a matter of course to Mr. Jay, as he well knew the strength of the party opposed to him; but he was not a little surprised at learning that his old friend Chancellor Livingston was nominated as the opposition candidate for governor.

On the 2d of January, 1798, Governor Jay, as was customary, opened the session with a speech, in which, among other matters, he recommended the passage of an act enjoining the better observance of the Sabbath. Such an act was supported by the leaders of both parties, and carried by a large majority.

It may now be questioned how far the views of the governor and Legislature, in passing this law, were correct. It is well known that there are many sects of Christians of the most sincere, and, in other respects, orthodox faith, who do not consider the observance of the first day of the week as a Sabbath to be prescribed by the Scriptures. Among these are not only the Catholics, but all the Reformed Churches of the Continent of Europe; and this opinion was held by many distin-

guished divines of the early age of the Reformation in England. The law has, in consequence, been but partially enforced, and has had a tendency to injure rather than aid the cause of religion. It may be justly considered as one of those which tend to abridge liberty of conscience, unless limited in its execution to the assurance that the religious feelings of the majority shall not be exposed to be shocked, by what they conscientiously believe to be impiety. So far, also, as it regards the labour of slaves and domestic animals, it is founded as well in nature as in religion, and is therefore not only proper, but almost imperative upon a people which professes Christianity.

In April, 1798, Mr. Jay, in spite of a formidable opposition, was re-elected governor, and soon afterward assembled the Legislature, in order that they might take measures for the defence of New-York. The country was then threatened with a French war; in anticipation of which, Washington had been again called upon to fill the office of commander-in-chief. Mr. Jay opened this session with a speech, in which he declared how necessary it was to provide for the security and dignity of the United States, and exposed the insults that his country had received at the hands of the French. The governor's speech met with approbation in the Legislature, and all the measures recommended or advised by him as necessary

were promptly and unanimously acted upon. A large sum of money was placed at the disposal of the governor, to be expended in the purchase of arms and the erection of fortresses. Internal dissensions were forgotten through fear of external danger; and even the opposing party admired the spirit and promptness of the governor.

The Legislature adjourned immediately after the passage of the acts recommended in the governor's speech, and held their usual session in January. But one act, bearing strongly on the feelings of the governor or the prosperity of the state, was passed. This law was that providing for the gradual abolition of slavery, which was well known to be one in which the governor was deeply interested; he had indeed declared, long before, that, were he a member of the Legislature, he would not rest until such a law were passed or his term of service was ended; three times already had this question been agitated; it was now brought up for the fourth time and passed. The opinions of the governor on this subject were founded on sound views of policy. He felt the necessity of putting an end to slavery, and, according to his views, its abolition was demanded, not only for the prosperity, but even the security of his native state. Feeling deeply as he did, he was no advocate for rash or sudden measures; he was no wisher for immediate and universal

abolition. He saw the danger of freeing suddenly a population uneducated and long smarting under injury ; he therefore sought no more than a gradual emancipation ; he desired slave children to be educated for freedom, and, while receiving that education, to be assured that at one day they would be called upon by the laws to use and enjoy it as freemen. Such were the principles embodied in the bill referred to, under the action of which the State of New-York has been freed from the danger of a servile rebellion, and its citizens from the listlessness and inactivity which often mark those owning a slave population.

Mr. Jay was conscientiously strict in providing for the prompt action of the laws, and twice called upon the military to overawe a force resisting the execution of justice.

Public affairs were now inclining more to peace. The treaty concluded by Mr. Jay had gone into operation. Its good effects had been seen. War with England was for the time impossible, and the efforts of the party which had urged that measure were now limited to the maintenance of peace with France. In this state of affairs Mr. Jay looked forward with pleasure to the time, now close at hand, when he would be able, without injustice to his supporters, to retire from public life ; this he determined to do as soon as his present term of office expired, and therefore com-

menced the erection of a building suitable for his habitation on his farm at Bedford.

The meeting of the New-York Legislature in January, 1800, afforded to the governor a fit opportunity for descanting upon the character and services of Washington, who was then but lately dead. This honourable tribute was becoming to Mr. Jay, for he could speak of the worth of the departed warrior and statesman, actuated not by public gratitude alone, or the common bond of patriotism; for he could also bear testimony, from experience, to the strength of his friendship and to his many virtues in private life. The governor reminded the Legislature of the unvarying virtue of him who was gone, and recommended to them, as the best tribute to his memory, the performance of such actions, the enactment of such laws, as would have been approved of by him when living. These and other opinions of the governor were respectfully listened to and concurred in by the Legislature, which was yet, as always heretofore during Mr. Jay's governorship, a body with a strong federal majority. It was, however, its last session while so constituted, for the principles maintained by the federal party were on the decline. The conduct of Mr. Adams, then president, had caused much dissatisfaction, and many joined the ranks of the opposite party. In November, 1800, the Legislature again assembled,

and the governor was opposed by a majority in that body ; he therefore, in his speech, confined himself to general and less important topics ; and the Legislature, although from his prudence they could not treat him with disrespect, responded coldly and inanimately to his words.

He was about this time waited upon by a committee who desired him again to become a candidate for the office of governor : he refused this offer, and soon afterward declined to fill the station of chief-justice of the United States, to which he had been again appointed. The letter advising him of the latter office was from Mr. Adams, then president, who strongly urged him to accept a post for which he was so well qualified, and the tenure of which did not depend on party supremacy. But Mr. Jay's resolutions of retirement were based upon conviction, and he refused to serve, on the grounds that retirement was more agreeable to himself, and that service from him to his country was no longer a duty.

In February the governor had a difficulty with the Legislature, caused by a difference in their construction of that part of the Constitution which referred to the power of appointment. On Mr. Jay's first entering upon office, he had urged upon the Legislature the necessity of so defining in whom the power of nomination lay that there could be but one construction of the law. This

request the Legislature had not complied with; and as hitherto the governor and that body had been politically one, no bad effects had resulted from this negligence. Now, however, the Legislature and the governor were opposing parties; the former had just been elected, and were the first fruits of a political revolution: those who had contributed to the change sought for their reward, which could not be gained as long as the governor nominated to office. The council of appointment therefore rejected all who were proposed by him, and finally, taking the matter into their own hands, nominated for themselves. To this dictation they supposed the governor would submit, merely entering his protest on the minutes, as had been done before; but they acted upon a mistaken opinion of his character. He took the responsibility upon himself, and adjourned the council, which could not meet unless he called them together; and although the civil offices of eleven counties were then vacant, he resolved to abide by his own construction of the Constitution, and thus keep his oath of office requiring him to maintain its provisions. Nevertheless, to show that he was not actuated by mere party motives, he took measures for settling the controversy as soon as possible, and sent a message to the Legislature, requesting them to decide the question, declaring his readiness to abide by that decision when legally made.

The Senate declared their willingness to decide the measure, but the Assembly resolved that it was beyond their power to interfere in the matter, hoping, by thus keeping the subject in abeyance, to render the load of responsibility too heavy for the governor to bear. Other measures were also taken to intimidate him, but without success; and no appointments were made during the remainder of his term. It will be interesting to trace the course that the affair afterward took, bearing out, as it does, the justice of Mr. Jay's views on the subject. When another governor was elected, the Legislature, finding that the responsibility in reality rested upon themselves, called a Convention, which revised this part of the Constitution, and vested the power of appointment entirely in the council; by this measure the governor was deprived of every power except that of the mere execution of the laws. The tenure of office, depending upon the will of a constantly changing body, became as fickle as the will of that body; and we sometimes find the same office filled by three different occupants in the course of a single year. At the revision of the Constitution in 1821, this defect was perceived, and the power of nomination was secured wholly to the governor, in whom Mr. Jay had always insisted that it ought to rest.

This was the last public political decision of Mr. Jay. On the expiration of the term of his office,

he carried into effect his long-cherished plan of retirement to his farm at Bedford, and we thus behold the character that he had so long played, of the active politician, the upright judge, the skilful negotiator, and the prompt and prudent governor, laid aside at once and for ever.

CHAPTER IX.

Jay's mode of Life in his Retirement at Bedford.

—Loss of his Wife. — His Independence of Character.—His Exertions in the cause of Abolition.—He is chosen an Officer of the Bible Society.—His Opinion on the Missouri Question.—He is struck by the Palsy.—His Death.—His Character further developed.

THE retirement now entered into by Mr. Jay was not of such a character as that which is forced upon the disappointed politician or the disgraced minister. His retreat was harassed by no feelings of political disappointment, his conscience disquieted by no recollections of ill-devoted talents, of principles prostrated to selfish and party purposes, or of power sought for and secured for the benefit of a faction. He could dwell with pleasure upon the recollection of energies well devoted, of talent well applied. In his letters to his friends, he states that it was sufficient occupation for him to muse upon the past, to prepare for eternity. He now conscientiously devoted himself to the duties of a private life; he improved his paternal acres; he rebuilt the mansion of his fathers; he was kind to his dependants, useful to his equals.

He busied himself with all the little interesting occupations of a country life ; he rode round his fields ; he cultivated his farm ; he interested himself in county business ; he was a promoter of, a member of societies for the diffusion of knowledge and religion, and instructed his relations and servants in those Christian principles which had always been the guides of his own course.

The manner of his life was simple and regular. He rose with or before the sun, read prayers to his family, breakfasted, and then spent the greater portion of the day in the open air, often on horse-back. In the evening he retired early, after having again led the worship of his family. His retirement was seldom broken in upon, and he regarded the political dissensions of the day with the philosophic gaze of a mere spectator, not with the eager look of the interested advocate of principles that he had formerly brought forward and defended. The first and greatest affliction in his retirement was caused by the death of his wife ; she whom he had tenderly loved, and who had been his partner, not only in the every-day events of life, but who had accompanied and cheered him in his political missions, performing the duties of a secretary and most confidential assistant. He bore the loss with a resignation becoming one possessing his Christian principles, and pressed upon his children the duty of bearing their bereavement

with a similar confidence in the justice of their Creator's decrees. Soon after this event we find Mr. Jay exerting himself to found an Episcopalian church near his dwelling. The church was built, and a large portion of the salary of the minister was contributed by Mr. Jay while he lived, and he secured an annuity to serve the same purpose after his death. Occasional visits to his children at Albany and New-York diversified his life at this time ; but, soon afterward, circumstances permitted him to enjoy more of their society, and his family was enlarged by the addition of grandchildren. When war commenced with England, he, at the request of some of his old friends, gave his opinions on that subject in letters to them ; and we find him at one time so far drawn from retirement as to busy himself in the election of senators. His influence was supposed in a great measure to have secured the election of two out of three in the district in which he then lived ; to the third he refused his support, believing him unworthy of it, because guilty of tergiversation. He was severely arraigned for this disobedience to party discipline, but defended himself with success.

The fearless independence which he manifested in this last political act of his life was no more than a continuation of the principle which had governed his actions both in a private and public capacity from the earliest exercise of his reason.

While still a boy, we have seen him resisting the authority of the faculty of the college in which he was educated, not from a youthful inclination to turbulence, but on a point in which his conscience was concerned.

In the opening scenes of the Revolution, he was fully aware of the penalty which would fall, in case of failure, upon the leaders of what the British government called a rebellion, yet he placed himself foremost in the discussions, and was speedily called by his compeers to hold the highest place. In his mission to Spain he manifested the same fearlessness and independence, disregarding his instructions from Congress when he found that, by obeying them, he would waive advantages which the course of the government of that nation had secured to the United States. The negotiation of the treaty of Paris is a still more marked instance of this fearless independence of character. He saw, or thought he saw, that the French government desired to retain the United States as a vassal nation; and, although unsupported for a time by his colleague, he boldly pursued the course his sense of right and patriotism dictated. It must not be forgotten that this colleague was Franklin, a man who at no remote period had stood first in the affections of the American people, who still was second only to Washington in their love, and who, in their esteem for his talents

and services, did not fall behind that great public benefactor. The communication which he opened, without the knowledge of that distinguished man, with the British ministry, is one of the boldest acts in the history of diplomacy, and one, the failure of which, he well knew, must have, at least for a time, involved him in disgrace; yet he saw that its success would prevent all risk of his country becoming only nominally independent, and he was willing to become a sacrifice in case it should fail. His success justified his conduct; but, even in case of failure, he would have retained the proud conviction of the integrity of his motives. It is only one who can find in such convictions a recompense for loss of popularity and political consequence who can thus nobly dare.

When, as chief-justice, he decided that a state claiming to be sovereign must appear and answer at his tribunal, he knew that he was re-awakening the whole fury of the anti-federal contest, and the popularity he then enjoyed with the whole nation would be thenceforth confined to the limits of a party; yet did he not hesitate. What he knew to be the sense of the Constitution, he was prepared to carry into effect, regardless of personal consequences.

To accept a mission to Great Britain at the moment he did, called for the exercise of the same quality. The feeling of sympathy for the strug-

gles of revolutionary France was naturally strong in all American breasts until her cause was sullied by so many criminal excesses. Even these had not extinguished the feeling altogether; and, when combined with a hatred of Great Britain, arising out of the recent recollection of hostilities, it might possibly have been too powerful to be controlled. Jay could not have been a stranger to the former influence. He, too, had perilled his life, fortune, and honour in the contest for freedom. Neither could the latter have been without its effect, for he had for seven years been an exile from the home of his fathers, while his paternal estate was wasted by a hostile force. But he saw in adherence to the cause of France a risk of the destruction of the institutions which his country had derived from the Saxon race, and which had been renovated, not destroyed, by the assertion of independence; he saw in prospective a long and interminable war for a quarrel not her own, in which her commerce would have been swept from every sea, and her reviving industry checked perhaps for ever. His judgment therefore overcame his feelings, and he gave his official influence as judge to the support of the proclamation of neutrality.

His bold resistance to what he considered an encroachment on the rights of his office as governor by the Council of Appointment has already been referred to; he did not hesitate to leave

many counties of the state without officers, in preference to submitting to what he considered a usurpation of his prerogatives. In another person this might have been considered, what his opponents represented it at the time, as a high-handed measure for the support of the party to which he belonged. That such was not the case he had an opportunity of proving. A year before the close of his second term of service as governor, the election of president was to be held, and parties were almost equally balanced. The existing law provided that the electors of president should be chosen in the State of New-York by the Legislature. It became probable that the vote of New-York would turn the scale, and give the office of president to the candidate for whom the vote of its electoral college should be cast. It was also rendered certain, by the progress of events, that this vote would be against the candidate of the party with which Jay was associated. A remedy, however, remained. In the existing Legislature, the federal party still held a majority; and, although it had held its ordinary sessions, some months remained before the term of service of the new House of Assembly and the senators elected in rotation should commence. It was proposed by no mean authority that the old Legislature should be reconvened by the governor, for the object of changing the mode of choosing presidential elec-

tors. Had this been done, it is now certain, as it was then highly probable, that the election of Mr. Jefferson would have been defeated, and the federal party retained in power. To Governor Jay a double temptation existed for pursuing this course. He could have defeated a party which had not only been in constant opposition to that of whose principles his conscience approved, and might also have had an opportunity of exercising a measure of retaliation for the act by which his election had been defeated in the first instance, and under the same cover of strict compliance with legal forms. In the present generation of politicians, the virtue which could have resisted that double temptation may seem almost incredible.

We have adverted on more than one occasion to the exertions of Jay in the cause of abolition. Enough has perhaps been said to show the position he maintained in relation to this question. Yet so much excitement has recently prevailed on this subject, that his course, perhaps, calls for a full explanation. While Jay, as has been stated, was favourable to, and instrumental in, obtaining a law for gradual emancipation in the State of New-York, it is obvious that he was not prepared to go the lengths of the modern abolitionists. He did not deny the abstract right of holding slaves, or stigmatize those who did so as offenders against

the codes of morals and religion ; for he made use of the services of slaves, both received by inheritance and obtained by purchase. With a sound view of the provisions of the Constitution and of the rights of the states, his efforts at emancipation were limited to the state in which he lived ; and his very position as an owner of slaves and a sharer in the probable loss by abolition, rendered his efforts more disinterested. If he forbore to apply to the general government for the exertion of authority which neither by grant nor by implication does it possess, he equally avoided any attempt at agitation in those states where the condition of society had not prepared them for the measure. His views, in fine, were those of a sound statesman and enlightened politician, not those of a fanatic and disorganizer.

Mr. Jay became a member of several religious societies ; he was elected president of the West Chester Bible Society, vice-president of the American Bible Society when formed, and was, on the death of its president, requested to fill that office. When informed that its functions were such as could be conscientiously performed by him without interfering with his private duties or hastening to its end an already declining constitution, he accepted the office, and continued for several years to prepare the address to the society delivered at its annual anniversaries. He was once again

called to give an opinion upon a political subject. When the present State of Missouri was about being admitted into the Union, a debate arose in Congress upon the propriety of tolerating slavery there, and Mr. Jay was applied to to state whether that body had the power of deciding upon the subject. He wrote to the committee who applied to him, saying, that he construed one clause of the Constitution as giving this power to Congress, and that they would be justified in laying down laws upon the subject of slavery to be observed by any of the new states; he also regretted that ill health would prevent him from co-operating actively with those who were to take measures to exclude slavery from the new state. On this point his opinion received the sanction of other distinguished jurists, and the question became, in fact, one of expediency alone.

In the year 1827 Mr. Jay was visited by a dangerous disease, during which he was given over by his physicians. The strength of his constitution, undiminished by early excesses, triumphed over the malady, and for two years longer his friends were permitted to enjoy the pleasure of his presence, the profit of his living example.

On the 14th of May, 1829, he was seized by the palsy while in bed, to which he had retired in the enjoyment of his customary health; his powers of speech were so much affected as to render

it almost impossible for him to converse ; but, from the few sentences that he uttered, it was easy for his friends to perceive that his mind was not impaired.

Medicine afforded him no relief ; and on the 17th of the same month he expired, leaving behind him such a reputation both for public and private character as has been attained by but few.

In private life he seems to have been a perfect model ; an obedient son, an affectionate husband, and a kind though firm parent. Many acts of unostentatious charity that he had performed were brought to light at his death. His tender solicitude for his aged parents, and his blind brother and sister, afford many proofs of the goodness of his heart. To sum up in one word all these perfections, he was a Christian in the fullest sense of the term ; his faith pointed out to him his course, was the solace of his after years, the hope that made happy his deathbed. He did not preserve his religion, as many do, like a precious jewel, to be generally kept concealed, and only brought to light on particular occasions ; but in every act of his life, however unimportant, his course seems to have been actuated, first by the desire of pleasing his Maker, and next by the wish to benefit his country.



LIFE

OF

ALEXANDER HAMILTON.

BY

JAMES RENWICK, LL.D.



P R E F A C E.

THE materials for a biography of Hamilton are copious. The early part of his life has been recorded in the first volume of a memoir drawn up by his son John C. Hamilton, Esq., and to the illustration of the virtues and talents of his father he has devoted the pious labour of several years. The public, however, is still anxiously waiting the appearance of the remaining volumes; and if by his consent the published volume has been freely used in the compilation of the present sketch, it is probably less perfect than it would have been, had the unpublished volumes been within reach.

In the absence of this invaluable material, much aid has been obtained from him in pointing out the sources whence information might be derived; and thus, although this short sketch can in no way forestal the new matter which will form so large a portion of the expected volumes, it may, notwithstanding, serve to awaken curiosity in respect to the character and services of one, who, among the heroes and patriots of the Revolution, will probably be placed by posterity in a rank second to Washington alone.

Columbia College, 1st August, 1840.



ALEXANDER HAMILTON.

CHAPTER I.

Birth and Parentage of Alexander Hamilton.—He enters a Counting-house in St. Croix.—He proceeds to New-York for his Education, and enters King's College.—His Distinction as a Student, and as a Writer of Political Papers.—He makes his appearance as a Speaker in Popular Assemblies.—His Success as an Orator.—He studies Military Tactics, and receives a Commission in the New-York Line.—His Services in the Campaign of 1776.—He accepts the appointment of Aid-de-camp to Washington.

AMONG the names of those who have contributed to the prosperity of the United States of America, that of Alexander Hamilton occupies no humble rank. We shall find him distinguished not only as a zealous and useful public servant during the important administration of which Washington was the head, but as an actor in the earlier scenes of the Revolution, as an officer of the highest merit during the war by which it was effected, and as the master spirit in the deliberations which

led to the restoration of order and good government under the existing Constitution of the federal government.]

No person of all our worthies has been more the object of unbounded praise on the one hand, and unmerited obloquy on the other, than Hamilton. [Of one of the two great parties into which the people were for many years divided, he was the idol, and of their principles the personification and imbodied spirit.] By the other he has been stigmatized as a monarchist and the advocate of an aristocracy.

Even at the present distant period, it is hardly possible to treat of his public services and official acts without opening anew the wounds of political warfare. [Still the epoch has arrived when the character of Hamilton may be duly appreciated ; when his military and civic services may receive their due meed of praise, not from the relics of a broken party, but from the unbiased verdict of his fellow-citizens.]

Perfect unanimity, even in respect to remote events, is not, indeed, to be expected in a popular government ; but the American people, as a mass, thinks and reasons, and is now in that state of mind in which a calm and deliberate opinion may be formed. Our countrymen, although often hurried by their passions into acts that a cooler reflection disapproves ; although fickle in their af-

fections to the living, whom they alternately exalt above and depress beneath their true level, still they have rarely failed to awaken to a just sense of their duties and interest, and to render finally to the departed patriot the praise to which his acts, while living, ought to have entitled him.

Alexander Hamilton was born in the Island of Nevis, then, as now, a possession of Great Britain, on the 11th of January, 1757. Pride in the high distinction he attained has led the European branches of the princely family of that name to claim kindred with him, and prove him a lineal descendant of that race which little more than a century since stood next to the Stuarts in their claim to the British throne. His father was the fourth son of Alexander Hamilton, of the Grange, in Ayrshire, who settled in the West Indies as a merchant. In this pursuit he was unfortunate, and derived, in his declining years, his means of support from the remittances of his distinguished son. His mother was descended from a French Huguenot family. Alexander was the youngest child of this marriage. He thus was not a native of the present United States; still the island of his birth had, perhaps, from its position as a colony, more of fellow-feeling for a great portion of our confederation than existed, at the time the Revolution broke out, between the eastern and southern states. Transplanted to our soil at an early

period of his life, he soon entered, with all the feeling of a native, into its wrongs and sufferings. A similar spirit pervaded all the insular colonies of Great Britain, but their exposed condition made them cautious in expressing it. Long years of estrangement may have broken the ties that once existed between the British colonies in the West Indies and those which now constitute the United States; but there was a time when they would willingly have made common cause with us, and symptoms of a similar spirit have recently manifested themselves.

Hamilton, at an early age, was compelled, by the pecuniary embarrassments of his father, to seek his own means of support. For this purpose he applied himself to commerce, and, entering the counting-house of an eminent merchant in St. Croix, manifested such talent and capacity as to entitle him to be intrusted with the whole management of the affairs of his principal during a necessary absence. At the time when made the repository of so important a trust, he numbered only fourteen years. Mercantile affairs were not, however, to his taste; he sighed for the means of obtaining the advantages of education, and for a sphere of activity more extensive than could be afforded within the narrow circuit of a sugar island.

An occasional literary essay showed his friends

his capabilities, and he was furnished, from the separate estate of his mother, with the means of prosecuting classical studies in the Continental colonies, where a wise policy had provided more extensive facilities of education than existed in the West Indies. We cannot, however, but consider his early introduction to the business of a counting-house as having exerted a favourable influence upon his subsequent career. The habits of order and regularity in a well-conducted commercial establishment are never forgotten, and are applicable to every possible pursuit. Nor is the exercise of a mercantile correspondence without its value in a literary point of view. To those with little previous education, or who have not an opportunity of improving themselves afterward, this exercise may communicate no elegance of style; but where the use of language has once been attained, the compression of thought and conciseness of expression on which merchants pride themselves, give a terseness and precision of diction which those educated in any other profession can rarely equal.

Hamilton arrived in New-York at a most interesting epoch. A spirit of resistance to the acts of the Parliament of Great Britain, which were justly considered as not only contrary to natural rights, but even to the admitted privileges of Britons, was fast rising to that height at which the colonists

finally threw off, not only the obnoxious usurpations of the Legislature, but even their own character of subjects to a king.

The dispute was indeed of no recent origin. Former kings had reproved their parliaments for interfering with the affairs of the colonies, and a colonial jury had on one occasion pronounced a verdict of guilty on a charge of treason against a distinguished individual who had sought redress from the houses of peers and commons of England for real or fancied wrongs committed by the government of his native colony. But the parliament had fallen to the state of a convenient engine of royal power, and the monarch was willing to take advantage of its subserviency to give legal form to his measures of taxation. The struggle therefore began, strange as it may now seem, on the part of the colonists, in an appeal to the prerogative of the crown against the acts of a legislature.

Coming last from an island not in the possession of England, Hamilton was not at first prepared to enter into all the feelings of the people among whom he was about to take up his permanent residence. He, however, speedily applied himself to the study of the controversy, and was not slow in admitting, in its fullest extent, the justice of the motives of the course of the provincials. From that moment he gave to its support

the whole powers of his precocious and ardent mind, and by continual reflection and meditation prepared himself for the post he was destined to take in the forensic and literary struggles which preceded an appeal to the sword. The deep thought he was known to have devoted to the controversies between the parent country and the colonies led to his being urged to address a public meeting of the citizens of New-York. This was his first appearance as a public speaker, and was made under many disadvantages. His real youth, and still more the appearance of it, growing out of his slender figure and small stature, must have given him the appearance of a boy presuming to mingle in the councils of men. Such premature attempts are rarely successful, but this was not the case in the present instance. He is reported at first to have hesitated and faltered; but, speedily recovering himself, poured out a burst of impassioned eloquence, depicting the long-continued oppression of the mother country, and, insisting on the duty of resistance, pointed out the certainty of success. In figurative style, he represented "the waves of rebellion sparkling with fire, and washing back on the shores of England the wrecks of her power, her wealth, and her glory." A breathless silence attended the delivery of his speech, which was succeeded by loud bursts

of applause, accompanied by wonder at the extraordinary eloquence of so young a person.

About this epoch he became a frequent writer in the columns of one of the New-York newspapers, and was actually drawn into direct collision with his preceptor, Dr. Cooper, the president of the college in which Hamilton was pursuing his studies. This reverend gentleman, educated in the tenets of the High Church and in the politics of the Tories at the University of Oxford, was distinguished, not only for his success as a teacher, but for his abilities as a writer, and his delicate and pungent wit. It is sufficient praise for Hamilton to say, that in this keen encounter he did not sustain a defeat.

Other and important publications were contributed by him to the cause of freedom; but we should do injustice to them were we to attempt an abridgment. They had no little influence in preparing the public mind for the arduous struggle which was about to ensue.

It is to the honour of Hamilton, that, while he exerted himself thus strenuously in disseminating the doctrines of the Revolution, he set his face against every species of disorder and violence. Popular commotions became frequent; and persons, obnoxious either from their principles or their infractions of the non-importation agreement, were sought and maltreated by mobs. Among these

was Dr. Cooper, at the same time the preceptor and literary antagonist of Hamilton. His escape from the hands of an enraged assemblage is mainly to be attributed to the delay afforded by Hamilton's eloquent address to them, during which another student roused the president from his bed, and conveyed him, almost in a state of nudity, to a recess beneath the gravel cliffs which then bordered the Hudson in the rear of the college.

On another occasion he interposed his eloquence to disperse a tumultuous assemblage known as Travis's mob, which menaced the life of an obnoxious individual.

When the press of Rivington, the Tory printer, was destroyed by a party of men from Connecticut, Hamilton again endeavoured to repress the unlawful act, but unsuccessfully.

When an appeal to arms appeared to be inevitable, Hamilton, with an ardour equal to that he had shown in argument, applied himself to the study of military tactics. In particular, he paid the greatest attention to the branch of artillery. He had previously become a member of a company of volunteers, where he had made himself thoroughly acquainted with the infantry drill; he now applied himself to the study in books of the higher branches of the profession, and, at the same time, sought instruction in gunnery from a veteran bombardier. His collegiate studies were brought

in aid of his military aspirations ; and when the Convention of New-York determined to form a military establishment, Hamilton, in spite of his youth and still more juvenile appearance, was, after a strict examination, appointed captain of the Provincial Company of Artillery. To raise this company and equip the recruits, he expended the last remittance which he received from St. Croix.

In command of this company he took a part in the disastrous battle of Long Island, and covered the retreat across the East River ; distinguished himself at the battle of White Plains ; and again protected the passage of the army over the Raritan, where, by the judicious position of his field-pieces, he retarded the progress of the pursuing enemy until night came on. In the brilliant enterprises of Trenton and Princeton he and his company bore a distinguished part, and entered winter-quarters at Morristown with numbers diminished to one fourth of the original establishment ; a diminution arising wholly from the casualties of the service. In the mean time, the main army had fallen away, partly by the loss of the garrison of Fort Washington, and by the slain of Long Island and White Plains, but still more from desertions, and the refusal of those whose term of service had expired to re-enlist, to less than a tenth of the numbers with which it had entered the campaign.

At Morristown Hamilton accepted from Wash-

ington the appointment of aid to the commander-in-chief; and here his active duties as a soldier closed for a time. It was not without reluctance that he relinquished the prospect of promotion in the line of the army, to which his distinguished services during the most arduous campaign of the Revolution would have entitled him, for a place in the staff.

Hamilton therefore made no small sacrifices to the cause of the revolted colonies. He had expended in the equipment of his company the last remnant of his patrimony; he now sacrificed much of military pride and ambition, for the rank which is acquired by a mere staff appointment is never recognised, except with reluctance, by those who serve in the line of the army. This feeling, however natural, is often unjust, and the case of Hamilton is a striking instance; for while his exposure to danger and share in military operations was as great as it could have been had he remained in the line, his return to no higher rank than he must have reached by mere seniority was, as we shall find, strongly opposed.

CHAPTER II.

Washington at his zenith of Popularity.—Character of the Relations between Hamilton and Washington. — Review of the Campaign of 1776. — Campaign of 1777. — Failure of its most Important Objects.—Causes of that Failure, and Reflections.

AT the moment Hamilton received an appointment in the staff of Washington, the latter enjoyed a popularity and reputation more unanimously granted than he ever again acquired in the course of his illustrious life; he was mature in age, possessed of the entire confidence of the public, and the admired object of every eye. (Hamilton was still a mere boy, endued indeed with intelligence beyond his years, the author of able and popular pamphlets, and finally a company officer of bravery, and likely to rise in the profession of arms. It is not possible that, in such a difference in their respective positions, any other relation could have existed than that of high respect and humble deference on the one hand, and, if the strict line of military etiquette was ever passed, of paternal interest on the other. But Washington was one of the few men who retain equal grandeur and excite

equal reverence in every possible position. One man only, it is said, and he alike remarkable for his impudence and his abilities, ever ventured to draw aside the mantle of dignity which invested Washington, even in private life, and he shrunk abashed from the abortive undertaking. Under such a chief, the duty of his aids became that of studying his thoughts, opinions, and feelings, which they were then to clothe each in his own peculiar style. From the period of his appointment to the command of the army until the close of the Revolutionary war, the active duties of the field left Washington but little leisure for the occupations of the cabinet. Much of his correspondence devolved upon his secretary and aids, but the thoughts and principles which it imbodyed were not the less his own. In the distribution of duties among the members of his staff, he showed the rare talent of distinguishing at once the exact sphere in which each might be most usefully employed; while in his selection from the line of the army or from civil life, the same power of discrimination was exhibited along with the total absence of jealousy. In no other point of view is the grandeur of Washington's mind more marked than in this. Some men, in other respects great, permit themselves to be surrounded by parasites and flatterers, whose unconditional subserviency to their own views they mistake for acute-

ness of intellect: others dread the approach of men of talent for fear of fostering rivals, and are content to act by inadequate instruments rather than run the risk of converting their tools into prime movers. The eagle glance with which Washington penetrated the thoughts and springs of action of others, preserved him from the first of these errors; his own consciousness of greatness from the other.

/ Delighting in the study of Plutarch, Hamilton had formed for himself a *beau-ideal* of human character. This vision of his mind appeared embodied in the person of Washington, who united the best portions of the most illustrious characters of that author with the graces which are the growth of Christian nurture alone. > Thus qualified to appreciate the virtues and intellect of Washington, and possessed of a faculty of expression in written language almost unrivalled, Hamilton became the depository of the most secret thoughts of his chief, and the organ of their promulgation. It cannot be doubted that, excelling as Hamilton did all his contemporaries in the rapidity with which he reached sound conclusions, he must sometimes have anticipated the more slow and cautious inductions of his commander, and that the latter may have accepted them as the results to which his own mind would finally have led him.

Such, then, was the original relation between Hamilton and Washington; a relation equally honourable to both parties, and which, with a single instance of temporary alienation, continued until the close of the life of the latter.

The campaign of 1776 had been generally favourable to the British arms. Lee, who commanded at New-York until the arrival of the commander-in-chief, had exposed a large portion of the army by taking up a false position on the heights of Long Island. It was at first a question whether this part of the forces should be withdrawn or re-enforced. The landing of the enemy at Gravesend settled the question by making a retreat in their face almost as dangerous, and in its disheartening results quite as efficient, as a defeat. The battle which followed exhibited the tactical skill of the British general in a most favourable point of view; the Americans were rather outmanœuvred than beaten. The project of the British, by which they abandoned New-York to the charge of a small garrison, and moved by way of the Sound to the rear of the American army, and by which it was hoped to cause it to fight again without the means of retreat, was frustrated by the prudence of Washington; he gained by the battle of White Plains the object of his wishes, the safe retreat of his army. In his subsequent manœuvres on the Hackensack and Pas-

saic, Washington showed himself fully equal to his antagonists, but he afterward sacrificed all mere military questions to the great object of covering Philadelphia. That city being placed out of all immediate danger by the affair of Trenton, he assumed the position of Morristown, by the occupation of which he in a moment repaired all the many misfortunes of the campaign, except the loss of New-York and the diminution of his effective numbers.

In the next campaign the British government committed a most important error in strategy. An army had been formed in Canada, which undertook to penetrate into the State of New-York by the way of Lakes Champlain and George. It appeared probable that, to aid this inroad, General Howe would have acted upon the Hudson with the force under his command, amounting to thirty-five thousand effective men. Whether he had satisfied himself that the defences of the highlands of the Hudson could not be forced in the presence of Washington's army, or whether he was determined, in any event, to pursue the object of his last year's efforts, is uncertain. Under one or other of these motives, he committed the irretrievable mistake of dividing his force. The greater part of it was directed by himself to the Chesapeake, leaving a strong garrison in New-York. He gained the object of his expedition,

and Philadelphia fell; but the Americans were enabled, by this division of the British army, through the exertions of Schuyler, to collect a force which, under Gates, surrounded Burgoyne, and compelled him to a surrender. Now was the moment at which the star of America was in the ascendant; had the battalions which foiled in the open field the veterans of England and Germany, and which, aided by the militia, prevented their retreat, been forthwith despatched to the assistance of Washington, Howe must also have laid down his arms. The water defences of the Delaware were still unbroken, and he had no means of retreat nor of receiving re-enforcements: he could not, in consequence, have adopted the bold measure which his successor in command was enabled to carry into effect the next summer, of marching across Jersey in the very face of the American army.

Washington was, however, now sensible of a public feeling which would have supported Gates in refusing to obey orders to join him with his whole force; he had also reason to suspect the existence of a party that would have taken advantage of any disaster which might have followed the weakening of the Northern army, to pursue him to ruin. He was, in consequence, compelled to limit his demands for re-enforcements to a mere request, subject to the discretion of Gates himself.

This request he however followed up by the mission of a trusty agent, empowered to issue orders in his name in case of need. This agent was Hamilton, and he executed his delicate and difficult task to the entire satisfaction of his commander. But, honourable as was the result of the mission to the agent who performed it, the anticipated advantages were lost by delay. The water-guard was forced before the re-enforcements joined the army, and Howe received by the way of the Delaware such additional strength as enabled him to defy the attack of the Americans, although he did not venture to engage in a battle which he had at first sought.

It may at the present epoch be no subject of regret, that the war was not closed by the capture of Howe at the end of the campaign of 1777; much of individual suffering, much loss of private wealth might indeed have been spared, but we question whether the nation would have emerged from the conquest with that capacity for self-government it has since exhibited. The trials and sufferings which attended the latter years of the Revolutionary war; the total downfall of public credit, which began in and followed them; the local disturbances, which threatened to break up the confederated colonies into numerous petty and hostile states, were all necessary to prepare us for

that happy Constitution which has been for so many years the pride and boast of America.

The value of which such lessons of adversity have been to the people of the United States, furnishes no excuse for those who were the instruments by which they were taught. We are at this distant day often inclined to speak and think of the Revolution as a series of events out of the ordinary course of human experience. We seem to find in it a civil war without vices or intrigues on the side of the successful party. We clothe the Whigs of the Revolution with all the virtues of humanity, while the Tories, unfortunate not only in the downfall of their cause, but in the estimate which has been formed of their character, are held up to posterity as examples of perfidy and cruelty. Much, however, is to be said in favour of the latter. It is no easy matter to dissolve at once the prejudices of education, to sever the ties of consanguinity and fellow-citizenship. Nor did the Whigs and Tories differ in the first instance to the extreme extent to which, by subsequent events, they were carried. Some of those who were in the beginning ardent opponents to the oppressive acts of Great Britain, hesitated when the Declaration of Independence was discussed, and withdrew from the councils of the nation rather than sign it. They could not bring their minds to forego those very rights and

privileges as Britons, for the assertion of which they had been willing to take up arms, and peril their lives, fortunes, and honours. In other instances, the opponents of the ministry which had laid the stamp tax, and thus the very leaders of the resistance of the colonies, had become the confidential agents of their successors in office.

Of those Tories who joined the royal cause in the hope of enriching themselves by the confiscation of rebel estates, or who bore arms against their country in the pursuit of plunder and pillage, no language is too strong to express the crimes. But to those who, from a sense of loyal devotion, assumed the position of fair and honourable foes, or who would not betray the confidence which had been placed in them by the British government, we may now speak with feelings such as the unfortunate adherents of the house of Stuart in 1745 are regarded in England. In both cases, many jeopardized their lives and fortunes in a cause they knew to be hopeless, and in compliance rather with a sense of honour than a conviction of its justice.

The cause of the Whigs, on the other hand, was not espoused by all from motives equally pure. Young and ardent spirits saw in the convulsions of a revolution openings for promotion which the royal government had denied them. Covetous and calculating men looked to the estates of the

rich loyalists as a subject of confiscation and division, while those of less ambition were content with treating as enemies those of their countrymen whose misfortune rather than their fault had enclosed as submissive captives within the outposts of the British army; and there were some who, like vultures, hovered between the lines of the contending parties, and impartially plundered both.

As in all other revolutions, personal motives were mixed up in that of America even with real patriotism; and demagogues who possessed none of the latter feeling, assumed its mask to cover their ambitious designs.

The ardent love of country which had distinguished the first two Congresses may still have influenced their successors, but it was no longer pure from all interested motives. The appointment of Washington as commander-in-chief had been made by a resolution of which the mover was the representative of an Eastern state, and for a time all sectional jealousies were unfelt. In the second year of his service in this capacity he received from Congress a proof of confidence never since given to any citizen, for he was, in fact, invested with all the power of a dictator. But a succeeding Congress not only gave up, uncalled, the supreme authority which their predecessors had thus exercised, contenting themselves

with the mere privilege of advice, but became the sport of an intrigue, by which Washington was to have been hurled from his elevated station with as little ceremony as if he had been a mere soldier of fortune. At this distant day it is hardly possible to trace the hidden movements of the cabal by which this attempt to force him into retirement was made; still there is positive evidence of the existence of a combination for the purpose; and, although it was ineffectual in attaining its object, it prevented the war from being brought to a decisive result for several years.

The movements of this cabal had so great an influence upon the subsequent fortunes of Hamilton, that they require to be examined in detail. As the aid of the commander-in-chief, he was the confidential minister of his magnanimous efforts to meet the envy and malevolence of some, and the misdirected energy of others; and it was probably from his tried and faithful service at this juncture that he acquired the unalterable good opinion of Washington, and secured himself in that relation which gave him so great an influence in the events which led to and succeeded the adoption of the federal Constitution.]

CHAPTER III.

Influences which were brought to bear against Washington.—Lee looked up to as a Leader.—Gates brought forward in that Capacity.—Accession of Mifflin.—Acts of Congress.—Their probable Motives.—State of the Public Mind.—Cessation of active Warfare in the North.—Hamilton resigns his Station of Aid-de-camp.—Views of the British Government.

THE secret influences that nearly caused the loss of the services of Washington to his country may be briefly comprised under the following heads: 1. The objection of the Eastern states, whose population filled the ranks of the army, to a commander of Southern birth. 2. The disaffection growing out of the frequent demand of the services of the militia, and its repugnance to strict discipline. 3. The existence of a party opposed to Washington among the officers of the army itself, and the final accession to this party of a cabal in the general Congress.

It was necessary to find a person of distinguished rank in the army, and prominent in the eyes of the public, to serve either as the instrument or leader of this cabal. Lee, who had high reputa-

tion for military talent, and had contrived, by caustic and disparaging remarks, to cause the resources of Washington's mind to be called in question, might have figured in the latter capacity. Circumstances, developed in Wilkinson's Memoirs, seem to intimate that he was meditating a brilliant enterprise at the moment in which he was captured, that should have offered a marked contrast to the hurried retreat of Washington across Jersey before the active Cornwallis. His capture was, however, attended with circumstances little creditable to him; and his position as a native of Great Britain was a cause of the failure of a general arrangement for the exchange of prisoners. He therefore remained long in captivity, although Washington's exertions to establish a cartel were unceasing, and generous in the extreme, when we consider that the principal point of difference was in respect to a person whom he must have known for a rival.

The fame and popularity acquired by Gates for the capture of Burgoyne pointed him out as a proper instrument in the hands of the cabal. Weak and vainglorious, he was unfit to perform the part of a leader, but was easily induced to become a tool, although his vanity was such as to aspire to the highest station. His first act in opposition to Washington was probably suggested by his desire to remain at the head of an impor-

tant and separate command. In this he was aided by the anxiety that was naturally felt for the recovery of the posts on the Hudson, captured by General Clinton in his unavailing attempt to relieve Burgoyne. For this reason Congress limited their orders to Gates for a detachment to reinforce the army of Washington to twenty-five hundred men, although the latter expressed his wish to receive seven thousand five hundred, which were absolutely necessary to put him in a condition to retake Philadelphia.

The thanks which were justly due to Gates as the commander of the army by which so brilliant an exploit as the capture of a British general with his whole army, were freely voted by Congress. But it escaped notice, that the convention under which the arms of that formidable expedition were laid down, was far less favourable to the United States than might have been obtained under the circumstances of the case. Gates himself was so sensible of this, that he volunteered an apology, through his aid-de-camp Wilkinson, for the terms which he had granted. The conditions, which Congress afterward found it necessary to refuse to comply with, were voted honourable and advantageous; and Gates, whose task had, in fact, been accomplished, was left in absolute control of the force he had commanded, under the pretence of a necessity to recover the posts on the Hudson, which

the enemy soon abandoned as untenable by them. This absolute control was vested in Gates by a resolution, making it obligatory on General Washington to consult with him as to the amount of the re-enforcement he was to receive ; and it was strongly urged that he should not be permitted to call for any re-enforcement without the concurrence of that officer.

The opposition to General Washington in the army mustered also in its ranks Mifflin, who had succeeded Gates in the appointment of quartermaster-general, and a number of foreigners who had been disappointed in their expectations of obtaining rank and influence. Among these, the most prominent was Conway. The wilful negligence or incompetency of Mifflin was productive of most disastrous effects ; and to one or other, or to both united, is to be attributed the distress of the army in the winter-quarters of Valley Forge. If wilful negligence was the cause, he appears to have been prompted to it, as he was certainly supported when its effects became manifest, by a party in Congress. It thus happened, that at the close of the campaign in which so great success had been obtained as to secure the recognition of the United States as a nation, and thus to give facilities for supplies that had not before existed, the army was exposed to sufferings almost unexampled even in defeat.

Although the force of public opinion compelled Congress to accept Mifflin's resignation of his office as quartermaster-general, yet on the very same day he was placed at the head of the Board of War. On the representation of Mifflin that the numbers of this board were not sufficient to give weight to its decisions, Gates, with another commissioner, was added, and that general became its president. He was, however, wholly unfitted to carry into effect the views of the cabal, and, in a rash moment, gave Washington an opportunity of effectually counteracting their schemes.

While Washington, at Valley Forge, was engaged in attempts to provide for his famishing and almost naked army, he received a letter from Gates marked with all the insolence of anticipated triumph. This letter was not only offensive in its tone, but conveyed an indirect insinuation that Washington had used unfair means in obtaining an extract of a letter from Conway to Gates, in which the conduct of General Washington, and his talents as a commander, were severely censured. It, in addition, contained a direct expression of the belief that persons in the military family of General Washington had been concerned in the acts of which Gates complained. The persons pointed at were Colonels Troup and Hamilton. In the correspondence which ensued, the honour of these gentlemen was most triumphantly

vindicated, and public opinion was once more enlisted on the side of Washington. The cabal, however, was only weakened, not destroyed. Taking advantage of the disorganization and distress which were the consequence of the insufficient administration of the department of quartermaster-general, the new board of war recommended to Congress the appointment of inspectors-general, with powers which were, in fact, paramount to those of the commander-in-chief. Rumours also were circulated that Washington intended to resign, and these at last reached his own ears through those members of the Congress who saw that his honour and the continuance of his services were indissolubly united to the cause of American liberty.

The attempt to appoint inspectors-general was defeated by a manly and decided letter of General Greene to Congress, and by a strong remonstrance from the general and field officers of the army. This scheme having proved abortive, a committee of three members of Congress and three members of the board of war was appointed, with such powers as made them a permanent court of inquiry on the conduct of the commander-in-chief.

The next step was to enlist Lafayette in the opposition, by the tender of a separate command of an army intended to invade Canada. This he with

great magnanimity declined, and agreed to serve only on the condition of his receiving orders from Washington.

At this distant date, and in the absence of exact records of the votes and acts of the Continental Congress, it is difficult to point out the members of that body who took an active part in the attempt to degrade and disgust Washington. Some, no doubt, were, for reasons personal or sectional, his political opponents; others may have been envious of the lofty distinction he had acquired; and others, again, from a well-grounded distrust, founded on a knowledge of historical events, were unwilling that any one man should attain a paramount influence by the weight of his character in the infant republic. They well knew how dazzling is military glory to the unenlightened, how strong the attachment which is excited in the breast of a soldier towards him under whom he has successfully served. The example of Cromwell could not fail to have been present to their remembrance; and the strong similarity in the origin and course of the civil war of England and that of the Revolution might well have excited distrust of one who stood so strongly in the affections of his brothers in arms. Since that day a still more remarkable instance has occurred, of one who began life so ardent a republican that no name would suit him but that of the

king-quelling Brutus, and who closed his successes by placing on his brow the imperial diadem and allying himself to the family which proudly claimed to be the successors of the Cæsars. To judge from all former examples, such views were well founded; and it was not an ill-calculated scheme to raise up as a rival of Washington one who had achieved high applause as a commander, and who must not have appeared to them to possess the high attributes of moral superiority which would have rendered Washington, had he been actuated by personal motives, trebly dangerous. Even with all the admiration which we, with all posterity, must regard that extraordinary instance of self-denial and public virtue, it may be reckoned a most fortunate circumstance, both for his own fame and the happiness of his country, that Washington was childless, and hence had one temptation less than Cromwell. We shall find that there was a time when but a single spark was required to set into a flame the feelings of an army, flushed on the one hand with the glorious termination of their labours and warlike toils, and goaded on the other by positive distress and a want of consideration for their invaluable services. Nay, the spark was actually applied; and it required all the talent and influence of Washington to stifle the conflagration in its birth.

Men are so prone to deceive themselves in mat-

ars which concern their own interests, that the commander of the American army, had he, at the close of the Revolution, united it, as might easily have been done, in a refusal to lay down their arms until their just claims had been satisfied, might have felt himself warranted, not merely by the justice of the demand itself, but by a feeling of regard to the honour of his country.

The prevalence for so long a time of a party that would, if possible, have probably defeated all the beneficial results of the Revolution, by substituting for the civic and martial virtues of Washington a merely military chief, who, if victorious, would not have exercised the forbearance and discretion which on subsequent occasions marked the conduct of that great man, seems to be principally owing to the imperfect form of the confederation and the anomalous position of the Congress.

Hamilton remained in the staff of the commander-in-chief until February, 1781, at which time a misunderstanding occurred, which made him feel the necessity of retiring from a station of which he had faithfully fulfilled the duties, although he had unwillingly assumed them. It is gratifying to observe, that, although Hamilton determined to retire from the family of Washington, this event did not in any degree lessen the esteem in which they held each other. Hamilton,

indeed, probably rose in estimation, both with his general and the public; the former feeling the want of his valuable services, and the latter seeing him in such a light as proved that he was not merely a useful engine in the hands of a superior, but capable himself of acting and directing. The great value of his services on the staff of the commander-in-chief was well understood by the few who possessed the confidence of Washington; and hence, when the station of adjutant-general became vacant in 1777, the nomination of Hamilton to that office was urged by Lafayette and Greene, who recommended him as of all other persons the most highly qualified.

During the interval which elapsed between the retreat of the British army from Philadelphia and the time when Hamilton resigned his appointment as aid-de-camp, the military events are of less interest than in the preceding years. Many plans of operation were discussed and schemes formed, which were prevented from going into effect by circumstances beyond control, or by the true and enlightened views which were entertained, that the integrity of the American nation resided in its army, which was not, therefore, to be lightly risked in any enterprise which did not promise a certainty of success. Among these projects may be mentioned those of attacking New-York and of invading Canada; the first by the aid of a French

fleet, the latter by a combined army of the two nations.

In the Northern states the motions of the British armies had ceased after the battle of Monmouth; content to bridle the United States by the possession of the important position of New-York, which, so long as they held the command of its waters, was almost impregnable, the British generals ceased from all attempts at acting with energy.

The war had, in fact, ceased to be a purely military question. The British government had ascertained that arms alone could not decide the contest; and the Americans had been satisfied of the wisdom of Washington's policy, who was content to keep an army in the field, and was determined not to risk it in a general action, unless all the probabilities of success should be with him. This army was, in fact, the essence of the national existence; the occupation of the principal towns in rotation had no effect upon the issue of the war; it augmented, indeed, the general suffering, but tended only to induce the people to a more obstinate resistance. This army, however, was continually on the brink of ruin from the want of means to sustain it. Mutinies of serious character broke out, and the British government began to entertain hopes that the armed force would melt away, and the people become weary of a protracted war.

CHAPTER IV.

Considerations on the Origin of the Revolution.—

Effects of the earlier Measures of Passive Resistance.—Emission of Bills of Credit by Congress.—Consequence of that Measure.—Decay of Public Credit.—State of Financial Affairs.—Hamilton proposes a National Bank as a Remedy.

THE mode in which the colonies were first excited to a passive resistance, then to the enrolment of local forces, next to the formation of an army under the control of the general Congress, and, finally, to the assumption of an independent position among nations, has been previously indicated. Whatever there may have been of plan and determination to establish a general government among the master spirits, and however evident it may have been to those who possessed a just view of the state of things, that the sole choice lay between entire submission or final separation, the people were not prepared, at the time hostilities broke out, even for the discussion of the latter alternative. War was waged against the troops of the King of England by men who had united in petitions to his throne, and still styled

themselves his faithful subjects. All the measures, therefore, necessary to maintain existence as a nation followed, and were dictated by the course of events, instead of preceding and controlling them. In the beginning of the struggle, each state raised its own troops, and sought the means of supporting and paying them. The troops were next put upon the continental establishment, and the direct pay and subsistence were to be furnished by Congress.

It is no impeachment of the wisdom of that body that they refrained from the imposition of direct and heavy taxes. Even those they ventured to recommend to the State legislatures, which had retained the power of levying them, were collected with difficulty, and imposed only under the pressure of the most urgent necessity. The country, in truth, entered upon the contest in a state of impoverishment. The threatening aspect of the times had induced the few men of moneyed capital to remove their funds to foreign countries; the measures of non-intercourse had put a stop to trade and to the circulation of money. The latter, however well intended as a method of passive resistance, was perhaps the very worst measure that could have been adopted in reference to an actual war. The colonies had no manufactures, and practised only the rudest mechanical arts. The merchants, whom the foresight for which that class of citizens are prover-

bial, would have induced to lay in stocks, not only of munitions of war, but of the articles of prime necessity for which the colonies were then wholly dependant upon Europe, were either led by patriotic motives or coerced by law to abandon their trade. The large foreign capital which they were in the habit of employing in their business was withdrawn, and their own resources diminished, by their being thrown for the support of their families upon their stock instead of their annual profits. Many of the sufferings of the revolutionary army arose from the absolute want of the usual supplies of materials for clothing, even more than from the want of means for paying for them. An unwise policy still farther enhanced the evil, for those who traded in British goods were considered as traitors to the cause, and the invested capital of foreigners was treated as a fair object of confiscation.

Congress, in the absence of other resources, had recourse to the emission of bills of credit. This was no new measure in America. All the British colonies had from time to time resorted to the same expedient, in the efforts they made to aid the mother country in its numerous wars. The consequences had been everywhere the same in character, although different in degree; and the Spanish dollar, originally worth less than 4s. 6d. sterling, had been enhanced in its measure in the lo-

cal currencies to different rates between 5s. and 8s. These efforts, however burdensome and obnoxious to those who felt little direct interest in their object, were far inferior to those required to change the condition of the states from that of colonies to that of an independent nation. The issues which were demanded were more copious, the depreciation which ensued more rapid and vastly greater.

Had this paper money been resorted to as a mere temporary expedient, and had the government cotemporaneously undertaken the preparation of a sound scheme of finance, the first emissions might have been redeemed, and no disastrous consequences need have ensued. The success of the measure, however, was so great at first as to mislead its planners. The patriotism of a large part of the people was such as to induce them to give ready currency to the new medium. We could cite instances where families, driven from their homes by the events of war, with ample means, spent their gold and hoarded the new paper.

The disastrous campaign of 1776 broke the delusion, and, even before an issue beyond the demand for a circulating medium had taken place, the fall in value became alarming. The old remedy of making the money a legal tender was resorted to, and, as it has always done, increased instead

of palliating the disease. The sanctity of contracts was invaded, the little vested capital destroyed, by payments in the debased medium; taxes, graduated to a specie value or to successive stages of depreciation, were received in a still baser money; while the prices of all articles nominally rose as rapidly as the paper fell in value. The bill for a dinner furnished some of the British officers captured with Burgoyne, at Philadelphia, was published by them in England, and is one of the most characteristic illustrations of the state of the times. It amounted to several thousand dollars, and was liquidated for two or three guineas.

In 1779 it appeared that the emission of bills of credit had amounted to the vast sum of one hundred and sixty millions of dollars; that the public debt for loans from citizens and foreigners had reached the sum of forty millions. Congress, in order to sustain or revive a credit which appeared to be nearly extinguished, now resolved, and pledged itself that the whole issue of bills of credit should not exceed two hundred millions. In spite of a full exposition of the resources of the country, intended to show that full confidence might be placed in the public faith, paper money continued to fall in value, and in less than two months the additional issue of forty millions, to which Congress had restricted itself, was exhausted.

As a new resource, bills of exchange were drawn on the American envoys in Europe, and sold at the rate of one dollar for twenty-five dollars in paper; and, finally, a new issue of bills of credit was voted, for which the faith of the individual states was to be pledged; for each dollar of these, forty of the old emission were receivable. All these attempts, however, did but delay the catastrophe, and the faith in the paper money fell to rise no more.

This state of things gave birth to extravagant speculation. The public, having nothing wherewith to pay for its supplies but a disgraced paper, was placed at the mercy of those individuals who had either husbanded their resources or succeeded in maintaining their credit. The holders of the paper money, forcing it into the market with a view of realizing any part of it, however small, raised the price of every necessary of life, while those who possessed gold and silver coin hoarded it.

The laws which made continental money, as the bills of credit were called, a legal tender, created a fierce war between debtor and creditor; and when the credit of that circulating medium had reached its lowest ebb, internal trade was at an end, from the ruinous rate of exchanges, and the impossibility of transmitting the precious metals from place to place in so disturbed a state of the national affairs.

Hamilton was an attentive and interested spectator of the state of things. His position in the staff of the commander-in-chief showed him the difficulties of the government in the strongest point of view. His intimacy with the officers of the French army, growing not only out of his station, but of the facility with which he spoke and wrote their language, had convinced him that it was possible that France might fail in her engagements; and it was a matter of notoriety, from the debates of the British Parliament, that the ministry now began to hope that a continuance of the war might cause a dismemberment of the Union, arising from financial distress.

At a date as early as the winter of 1778-9, when the headquarters of the army were at Morristown, Hamilton addressed an anonymous letter to Robert Morris on the subject of the public distress and the means of remedying it. Morris was then, as for several years afterward, a delegate in Congress from Pennsylvania; and, from his skill and success as a merchant, was looked up to as the leading member in all questions of finance.

In this letter, after an examination of the causes of the difficulty, he proposes, as the only remedy, the obtaining of a foreign loan, but goes on to exhibit that this would not be effectual unless properly applied. He then examines plans which appear to have been proposed for the employment of such a loan, namely, that of buying up a

part of the paper, and of importing merchandise on public account. Rejecting these as insufficient, he proposes as his plan a *National Bank*, to be founded on a foreign loan of two millions, and two hundred millions of paper money, to be valued at ten millions in specie.

This, as far as we have been able to ascertain, is the earliest plan of a National Bank. It is not improbable that the advantages and facilities obtained by the governments of Europe, as well as by individuals engaged in commerce, from such institutions, had presented themselves to many reflecting persons. But all existing institutions had arisen under circumstances widely different from those in which the United States were placed. Even the Bank of England had not been established for the purpose of restoring a credit already fallen, but to give stability to one about to be impaired. It was left for Hamilton to perceive how such an institution might be made the means of rebuilding a confidence, fallen, to all appearance, beyond the chance of repair.

The communication of Hamilton to Morris is marked by sound and clear views of the condition of the currency, and was far in advance of the knowledge of the day. It is distinguished by the rejection of the whole system of temporary expedients to which the necessities of the times and the dread of imposing direct burdens on the people had given birth. The scheme, however, was

too bold even for the eminent financier to whom it was addressed. Whether it had any influence on his mind does not appear. Certain, however, it is, that within fourteen months of its date Morris submitted to Congress a plan of a bank in the State of Pennsylvania. He did not, however, venture to adopt any of the bold features of the scheme proposed by Hamilton, but contented himself with an institution founded on a moneyed capital alone. Even this was attended with beneficial results, but was ineffectual towards the great object of checking the rapid downfall of public credit.

Hamilton had suggested the idea of using the credit of the government in mercantile adventures, not as a principle of steady action, but as a temporary expedient for paying the interest on the foreign debt; and this plan, we find, was adopted by Morris.

The project submitted by Hamilton to Robert Morris bears date in 1779; the Bank of Pennsylvania was not reported to Congress until June 22d, 1780, nor the Bank of North America proposed until May, 1781. Gouverneur Morris, who has claimed the merit of planning the latter, was not appointed assistant to the superintendent of finance until July 6th, 1781. He may, however, have been consulted previously, but there is no probability that he had moved on the question as

early as 1779. The anonymous communications of Hamilton were not intended to gain reputation for himself, but made from purely patriotic motives; the superintendent of finance was at full liberty to use them as he saw fit, and precluded from even guessing at the author; hence, that the statement of Gouverneur Morris was made in good faith, is not rendered doubtful by the discovery of this interesting document among Hamilton's papers: it, however, destroys his right to the merit of priority. 7

All that relates to the necessities and embarrassments for which a National Bank was proposed as a remedy, must be for ever interesting. The question of a bank, both in its expediency and its constitutionality, has been one of those which has caused fierce debates in our legislative bodies, and excited the fury of party difference. Wise and patriotic men have espoused both sides of this question, and have been supported by those possessed equally of honest and public-spirited views. There can be no doubt that, when a bank was established in conformity with the views of Hamilton, it fulfilled all the purposes for which he intended it, and was attended with none of the evils which its opponents predicted. Nor does it appear probable that, in the low state to which public credit was then reduced, any other measure could possibly have produced similar results. In

this case the prostration of private interests grew out of the failure of the public to meet its engagements.

So fully was the expediency of a bank demonstrated, that when, at the close of the war of 1812, a similar but far less embarrassed state of things existed, a like remedy was adopted, and equally beneficial consequences followed. Since that period new experience has been acquired from the practice of foreign countries, and it does not appear to be impossible that the government may itself, if in possession of good credit, perform its own fiscal operations, and, at the same time, subserve the purposes of trade. To unite these objects successfully will require great talent and honesty of purpose; and yet there seems to be little probability that the purposes of the government can be attained without providing for the wants of commerce.

CHAPTER V.

Hamilton corresponds with Duane.—Second Letter to Morris, and his Reply.—First proposition for a Convention to establish a Federative Republic.—Reflections on State and Federal Sovereignty.—He edits “the Continentalist.”—Obtains the command of a Corps of Light Infantry.—Serves at Yorktown, and leads the Forlorn Hope.—Retires from active Service, and commences the study of Law.—His Marriage.—He is appointed by Morris receiver of Taxes for the State of New-York.

Soon after addressing the anonymous communication to Robert Morris which has been referred to in the last chapter, Hamilton commenced a correspondence on the same subject with the Hon. James Duane, then a member of Congress from the State of New-York. In one of his letters written at this time, he alludes to the first bank established at the instance of Morris, that of Pennsylvania, and then proceeds to illustrate the advantages of a more extensive and powerful fiscal agent.

A letter to Morris, dated April 30, 1781, discusses the question still more amply; after pro-

posing a National Bank as "a plan which will not only advance the interests of the traders, secure the independence of the country, and in its progress have the most beneficial influence upon its future commerce," he states that there is no other possible method which could relieve the public distress, and that the longer such a project was delayed the more difficult it would become. He next cites and refutes the objections which have been made to banks, showing that they merely prove that banks, like all other good things, are liable to abuse; and that the same arguments were equally applicable to the precious metals themselves, or to great power, extensive commerce, and riches; that, in fact, they were directed against national prosperity itself.

He next quotes the examples of the beneficial effects of national banks in the cases of Venice, Genoa, Hamburg, Holland, and England, all raised to a consequence far beyond that to which they were entitled by their population or territorial resources, by the wisdom of their fiscal arrangements. The example of the last-named country is examined at great length, and shows that the United States were at the time in exactly the same position as England was at the end of the long and expensive wars of William III. Next follows a plan of a bank adapted to the condition and circumstances of the United States.

We shall not comment upon this splendid plan, nor exhibit the arguments adduced to show its practicability, even in the forlorn state of the public credit of the day. It had no result, and is therefore only quoted to prove the sagacity of Hamilton.

On the 26th of May, 1781, Morris informed Hamilton that he would speedily see the plan of a bank which had already received the sanction of Congress. He admits that its capital was too small to accomplish all the desired ends, but expresses the opinion that, beginning upon a limited plan, it would, if successful, command a future increase of capital.

The votes on the question of establishing this bank are interesting, as exhibiting the state of public opinion at that time in respect to the expediency of a bank. They are still more important considered in relation to the question of its constitutionality, for the powers of Congress under the confederation had by that time been construed to be far less than the present government possesses by express grant. Upon this vote New-York and Delaware were not represented; the minority was composed of Pennsylvania and Massachusetts; while Virginia, with all the other Southern states, voted in the affirmative. Of the individual members, Madison was the only one from Virginia who was opposed to the plan.

The inquiries of Hamilton were not confined to the means of relieving a distress merely pecuniary, but were extended to the whole organization of the federal government. In notes appended to his anonymous communication to Morris, he points out the evils growing out of the mode in which the public affairs were conducted, and proposes a remedy. This was found, on its adoption, to be efficient, and constitutes the very system which has been followed up to the present day. In the letter to Mr. Duane, the same plan is more fully developed, and farther imperfections, with their appropriate cures, are noted. This letter was the germ of the present Constitution of the United States, and ought to be read and studied by every American citizen. It will be found at full length in the Life of Hamilton by his son.

In this letter he points out, as the fundamental defect in the existing system, a want of power in Congress, in consequence of which its influence and credit with the army had been ruined, and the dependance of the several corps of that body upon separate states, rather than upon the confederation, established. He then alludes to the argument that Congress never had any definite powers granted to it, and shows, in reply, that it had exercised all the highest acts of sovereignty, and that these acts had been cheerfully submitted to; instancing the declaration of independence, the

declaration of war, the levying an army, creating a navy, appointing a dictator, emitting money, making alliances with foreign powers, all implications of complete sovereignty. He then states that undefined powers are, in fact, discretionary powers, limited only by the object for which they were given.

In continuation, he cites a fact which he must have had full means of knowing, that the *lines* of the army were ready to obey their states in opposition to Congress, and that the only obstacle to this lay in the personal influence of the general. He then shows the wide difference between the situation of the United States and that of a country simply distributed into counties, &c.; that, in the former case, the danger is, that the confederate government shall not have power enough to unite the different members together, and direct the common strength to the interest and happiness of the whole.

In illustration of this position he quotes the examples of the Greek republics, the Swiss cantons, and the Germanic body, and shows that the instance of the United Provinces does not militate against it, in consequence of an influence exerted by the family of Orange almost equal to that of a limited monarch.

His next argument is drawn from the experience of the United States, which he thinks should

be satisfactory. He shows the futility of the attempt to induce the separate states, by individual acts of legislation, to combine in equal exertions for the common cause ; and points out the defect arising from uniting the functions of a deliberative and executive body, a defect not remedied by the division of Congress into boards where responsibility did not exist. In considering the remedies, while he thinks that Congress might with propriety resume and exercise the discretionary powers originally vested in it, he proposes, as a far preferable method, the call of a convention of the states, vested with full authority to conclude finally on a general confederation ; and this is the very earliest proposal of this mode of putting an end to the existing evils.

The powers which should be given to Congress under a new confederation are then enumerated, and are, with few exceptions, such as are given to the federal government by the existing Constitution.

It is here to be remarked, that the particular power of establishing banks, and evidently intended to be exclusive of any such power in the individual states, is enumerated, instead of the general power of regulating the currency which is contained in the federal Constitution ; thus leaving no doubt of the intention of the mind which conceived the federal Constitution as to the meaning of that clause of our national charter. The power of

the purse is, however, guarded more strictly than in the finished instrument ; certain sources of revenue are enumerated as proper to be granted to the confederation, while for any farther supplies he proposes that the assent of the state legislatures should be necessary.

As a partial measure, to fill the interval required for the call and the action of the convention, he finally proposes the formation of an executive body, composed of five heads of departments, to be nominated by the existing Congress.

It is hardly possible at the present day to appreciate the entire merit of the plans of Hamilton. His views are to many so familiar, and his positions so completely established in all their points, as to assume an air almost commonplace. But we have to recollect that these letters preceded the close of the revolutionary war, and were, in consequence, years in advance of the opinions even of the most enlightened statesmen.

The beautiful course of inductive reasoning, from the misfortunes and experience of other nations, by which he attained his results, cannot fail to strike all who read it. It is now the fashion to neglect the lessons of experience, and despise the examples, whether of encouragement or of warning, which the fate and destinies of other governments afford. We reason in respect to government, national economy, and political actions

upon abstract principles, such as have never been found sure guides to point out in advance the results of contemplated measures, however well they may seem to explain a course of events that has already occurred. After all, the passions, the fears, and the prejudices of mankind are far more important elements in national prosperity than is admitted by the school of Adam Smith. It is not merely necessary that a nation should have ample resources in order to enjoy good credit; it must, besides, possess an unblemished reputation for faith; and such reputation is even more delicate than that of the merchant; for, if his resources be sufficient, the law is generally adequate to make him fulfil his engagements. But nations lie beyond the reach of civil process; and a rash act, or even an ill-considered phrase on the part of an administration, may impair the best-founded fabric of credit. This will not affect its government merely, but will be felt in the foreign traffic of its individual citizens.

If the greatest caution be necessary to retain unimpeached the credit of European nations, it is even more essential in our own. Many of them are in possession of capital exceeding in amount all the means of profitable investment. Thus, even when their governments are loaded with debt, they rarely find it difficult to obtain new loans; and all private enterprises which promise

safety in the investment and reasonable profits, find a sure supply of funds.

With us the case is widely different. Our commercial capital is far beneath the amount which is needed even in our domestic trade. Our merchants anticipate the proceeds of their shipments to Europe by bills upon the consignees; our importers buy in foreign countries upon a long credit; and thus, in fact, the whole of our foreign trade may be said to be conducted by the funds of other countries. So also is a great part of our inland trade. The length of the foreign credit enables the importers to trust their customers; and it is only in the intervals which elapse between the receipt and the sale of goods that American capital becomes necessary. We know, indeed, that a gradual increase of wealth is rendering this system less common. Purchases are occasionally made with cash in Europe, and a profit is thus realized, not only in interest, but in the large allowance the manufacturers can afford to make as an equivalent for the risk of bad debts; but that our trade is chiefly built upon foreign capital is still true in the main.

Not only is our mercantile capital insufficient for our trade, but the vested capital of the nation is comparatively small, and every addition from an extrinsic source, if judiciously applied, is attended with an increase in the value of property wholly

unexampled. If the products of our own labour suffice to form the thousands of miles of new roads which the continual extension of our inhabited country annually demands; to clear and enclose our new fields; to erect our farm-buildings, and furnish the few and simple implements our agriculturists have yet learned to employ, the same is not the case with our great public works. The canals of New-York and Ohio, the great combined system of public improvements in Pennsylvania, have all been effected by foreign capital, and have added so much to the wealth of their neighbourhoods, that, were the works themselves merely to pay the cost of their own repairs, taxes competent to the payment of interest and the redemption of the loans might be imposed without injustice, and paid without hardship.

To return to our more immediate subject: Hamilton, not content with urging his views upon the consideration of members of Congress, undertook, in 1781, to draw the public attention towards them. For this purpose he published a series of papers, under the title of the *Continentalist*. Some of these have been lost; those which are still to be procured place the principles he had before urged upon Duane and Morris in a more familiar and popular light. They had, doubtless, no unimportant influence upon the public mind, and served to prepare the way for the deliberations of that illustrious assembly

which formed our present Constitution. From one of these papers we cannot avoid making an extract. "There is something noble and magnificent in the perspective of a great federative republic, closely linked in the pursuit of a common interest, tranquil and prosperous at home, respectable abroad; there is something proportionably diminutive and contemptible in the prospect of a number of petty states, with the appearance only of union—jarring, jealous, and perverse—without any determinate direction; fluctuating and unhappy at home, weak and insignificant by their dissensions in the eye of other nations."

On leaving the staff of Washington, Hamilton sought to be reinstated in the line of the army. To this there were many obstacles. The jealousy always entertained by officers of the line in relation to those who obtain their rank in staff employments, is proverbial, and Hamilton found it existing in his case. No objection seems to have been made to his return to the corps of artillery with a rank equal to that he held as aid-de-camp to the commander-in-chief. But in this event he would have been the youngest lieutenant-colonel, while, had he retained his active command, he must by that time have been the oldest. He finally succeeded, after much negotiation, in obtaining the command of a battalion of light-infantry. At the head of this he made the campaign

of 1787, and led the forlorn hope at the storm of the redoubts of Yorktown.

On this occasion, the light-infantry of the American army and the grenadiers of the French, in noble emulation, undertook the attack of strong and still uninjured field-works, and both succeeded, in spite of the gallant and determined resistance of veterans, who, in all the chances of war, had never before sustained absolute defeat. Yet in the success there was a diversity; the redoubt attacked by Hamilton was first carried, and with least loss; while his troops, in the flush of victory over a determined opposition, exhibited, perhaps, the only instance on record of a non-compliance with the stern laws of war, which refuse quarter to a foe who has withstood an assault, and from whose other forces resistance or relief is still to be apprehended.

After the capture of Cornwallis, the troops commanded by Hamilton returned to the regiments whence they had been detached, and his military occupations ceased. Unwilling to lose the opportunity of being useful, he retained his commission; but, with praiseworthy independence, he refused to receive the emoluments to which it entitled him.

This act of disinterestedness is the more to be admired, inasmuch as he had exhausted the small remnant of his maternal estate in the equipment of

his company at the commencement of the war, and might in equity have looked to be repaid his advances. He had also entered into new ties, and had claims upon him that would, in most minds, have justified him in taking advantage of the emoluments which his long services had earned.

Shortly after his leaving the staff of Washington, and before the expedition against Cornwallis, he had been united in marriage to a daughter of General Schuyler; and the act of declining to receive his pay was about contemporaneous with the birth of his first child.

In order to provide for the support of his family, he determined to prepare himself for the profession of the law. In this study he made such proficiency, that he was enabled, in the course of a few months, to present himself for examination, and obtained a license to practise. While occupied in his legal studies, he received an offer from Robert Morris of the situation of receiver of taxes for the State of New-York. This he at first declined, from the fear of its interfering with his professional pursuits. Morris was, however, too sensible of the value which his services would be to the country to permit him to refuse, and, at his strong instance, he undertook the duties. The time is long past when the history of the financial transactions of the confederation with the separate

states can possess any interest to the reader; it is only necessary to remark, that the exertions of Hamilton to produce a harmonious co-operation between the general and state government were unwearied, and entitled him to the gratitude and confidence of both parties. To Hamilton this appointment was of no little importance, for it gave him an opportunity of establishing his reputation for business talent and political ability in the eye of the Legislature of that state which he had chosen for his future residence. The nation, too, was the gainer, for Hamilton was thus introduced into public life many years before he would have reached notoriety as a statesman through the slow course of forensic occupations.

CHAPTER VI.

Hamilton takes his Seat in Congress—Question in relation to Vermont.—Plan for a uniform System of Duties on Imports.—Opposition of Rhode Island.—Anonymous Letter published in that State.—Proceedings of Congress in relation thereto.—Virginia withdraws its Assent.—Report of the Committee of Finance.—Hamilton proposes a Substitute, which is rejected.—Report of the Committee of Finance, and Documents appended.—The Newburgh Letters.

HAMILTON took his seat in the Congress of the United States, as a delegate from the State of New-York, in 1782. The pressure of the war was over ; for the capture of Cornwallis and his army had proved to the British government that nothing more was to be expected from attempts to occupy or even overrun the country. It had been found, that while their generals, at the head of well-equipped and admirably-disciplined forces, could at the first onset prevail in their incursions, they, at best,* had never been able to occupy more ground than the mere position of their camps ; and, however successful at first, had been invariably worsted in the end. The advance of Bur-

goyne into the State of New-York had terminated in his laying down his arms; the capture of Philadelphia had been followed by a disgraceful retreat through New-Jersey; and the march of Cornwallis through the Carolinas into Virginia had resulted in the surrender of his army. Still, the hope of gaining by weariness and suffering what could not be accomplished by arms was not wholly abandoned. The strong and advantageous position of New-York was occupied by a large army, and made impregnable to any force which could be brought against it, even by the union of the French and American armies. In addition, the navy of England had regained its supremacy at sea, and the side on which New-York is most vulnerable was thus covered from attack. All parties, however, were wearied with the war, and negotiations for a general peace were speedily opened in Paris.

Congress had now many important duties to perform, under circumstances of considerable difficulty. An army was to be kept up after the excitement of actual danger had passed away, and when the resources of the country had been much impaired by a long continuation of hostilities; the negotiations for a peace were to be directed, and, as it soon appeared, under circumstances very unfavourable to the maintenance of the power or even of the security of the United States; terri-

torial disputes had proceeded to a great extent among the members of the confederacy, and, in particular, a district inhabited by a hardy population was in a position which rendered it probable that arms must be resorted to to settle the matter in litigation. The present State of Vermont had been principally settled from the other colonies of New-England. The State of New-Hampshire had assumed the right of making grants within that region, under which possession had been taken. The colonial government of New-York had also issued land-titles, and some of the citizens of the state had attempted to occupy the property so granted. To this attempt resistance amounting to force had been opposed, so that the civil officers of New-York had been prevented from executing their offices. Congress had been appealed to by both parties; and while the justice of the question was beyond doubt on the side of New-York, considerations of expediency prevented any attempt to enforce the claim, for fear of driving the whole of the frontier State of Vermont to a reconciliation with the mother country.

Of this question Hamilton took an impartial view; and while he united with his colleagues in the support of the claim of the state he represented, he doubted the propriety of attempting to enforce it by arms.

The acts of the people of Vermont had, how-

ever, passed the limit of discretion, and, in defiance of resolutions of Congress, they had proceeded to exercise jurisdiction over persons professing to be subjects of the State of New-York, even beyond the line of the disputed territory. Some of these were condemned to banishment, under penalty of death and confiscation in case they should return; while others were fined in large sums, and otherwise injured in their property.

In order to appease these dissensions for the time being, resolutions were introduced by Mr. M'Kean of Delaware, which were seconded by Hamilton, requiring, on the one hand, that the banished persons should be permitted to return, and full and ample restitution be made to them; and, on the other, that no person holding commissions under the State of New-York should exercise authority over the persons and properties of the inhabitants of Vermont. The resolutions also declared that the United States would take measures to enforce them. An unsuccessful attempt was made to strike out this clause, without which the whole would have been nugatory; and the resolutions, with a slight amendment, passed.

[Hamilton, although one of the youngest members, immediately took a high stand in the debates and business of Congress, serving, frequently as chairman, on important committees, and moving many valuable resolutions. Before he took his

seat, the attention of Congress had been directed to the condition of the finances, which, although somewhat improved under the administration of Robert Morris, were still in a state of great confusion. On the 3d of February, 1781, a resolution had passed, recommending to the states the imposition of duties on the imports of merchandise and on the sale of prizes. This, which, in order to be successful, must have been general, had been defeated by the opposition of Rhode Island, which had refused to come into the measure. It was, however, evident that, without some such provision, the credit of the country could not be sustained. Hamilton therefore, within a few days after taking his seat, moved that the superintendent of finance be directed to represent to the several states the necessity of their complying with the requisitions of Congress for raising \$1,200,000 to pay the interest on the debt, and \$2,000,000 to defray the current expenses of the year; the resolution went on to declare that Congress was determined to make the fullest justice to the public creditors an invariable object of their counsels and exertions. Thus far, on a division of the question, the resolution was passed by a unanimous vote. The last part of it provided that a deputation should be sent to Rhode Island, for the purpose of making a representation of the state of public affairs, and of urging the necessity of a compliance with the res-

olution in relation to duties and prizes. This part was also carried, the State of Rhode Island alone voting in the negative. A draught of a letter was in consequence reported by Hamilton to be sent with the deputation, and was adopted.

An attempt was now made by the delegation from Rhode Island to rescind that part of the resolution providing for sending a deputation; but this attempt was defeated. The next step was a report from Hamilton as chairman of a committee, that the deputation ought to proceed to Rhode Island as soon as possible. Of the acts of this deputation no notice appears on the journals of Congress. The great measure of a general and uniform system of duties, the proceeds of which should go into the public treasury, was delayed, to the detriment of national credit and the breach of the public faith. In order to furnish an excuse for the refusal of Rhode Island to comply with the requisitions of Congress, an anonymous letter was published in that state, purporting to be from a gentleman in Philadelphia. This letter stated that the finances were prosperous, and that the credit of the country stood so high abroad that the only danger was that of contracting too great a debt. The appearance of this letter caused a feeling of indignation in Congress, and it was resolved, in conformity with the report of a committee, that the secretary of foreign affairs should

write to the executive of Rhode Island to inquire through what channel the communication had been made. No sooner had the resolution passed than one of the delegates from Rhode Island requested leave of absence. A few days afterward the same delegate, having returned, avowed himself the author of the letter, and introduced a motion prefaced by a long defensive preamble. A resolution was then moved by Hamilton, that a committee be appointed to report such measures as it would be proper for Congress to take in respect to the motion which, in compliance with the articles of confederation, had been entered on the minutes, but which was "derogatory to the honour and dignity of the United States in Congress assembled." The committee, of which Hamilton was one, reported a resolution, that the several motions, with an account of the state of the foreign loans, should be communicated to the executive authority of the State of Rhode Island. The passage of this resolution was a virtual expulsion of the offending delegate, whose name speedily ceases to appear on the minutes of Congress, where he did not show himself for several months.

The opposition of Rhode Island, however, lost its importance; for the measure of duties on imports was rendered impracticable by the withdrawal of the powerful State of Virginia, then by

far the first in the confederation, of the assent which she had before given.

Of this question of securing to the government of the confederation the proceeds of general and equal duties on imports for a term of years, Hamilton was, as we have seen, a constant and uniform supporter. Had it prevailed, much of the distress which followed might have been prevented; but the delay of Rhode Island, and the subsequent change in the decision of Virginia, prevented this all-important measure from being adopted.

The State of New-York, which was the seat of war almost from its commencement, and had been, with but small exceptions, overrun by the enemy, was unable to pay its contingent of the public burdens. Morris, the financier, knew its impoverished and suffering state, and never included its quota among his estimates of ways and means. On the other hand, it had, in the subsistence of the army, often destitute of all means of payment; in the personal services of its citizens, all of whom had at one time or other been under arms; and in the injuries it had sustained from both belligerents, borne more than its full share of the public burdens. These were paid, from states more fortunately situated, in money, in New-York by personal suffering. Of this latter, however, no estimate could be made, and New-York appeared in the light of a debtor

state. Hamilton, in order to free it from this painful position, moved that, in the final adjustment of accounts, equitable allowances should be made in favour of the states which had been at different periods in possession of the enemy; but the motion was lost, in spite of its obvious justice and expediency.

The most important committee of Congress on which Hamilton served was that of finance. We have already seen the difficulty which had been interposed in the way of duties on importations by the State of Rhode Island. Still, the hope of obtaining what were styled "substantial funds" from the states, in this and other forms, was not abandoned. The committee therefore reported resolutions, in which the duty on imports was again recommended to the states, for the sole purpose of the discharge of the principal and interest on the debt contracted during the war, and for a term not longer than twenty-five years. These duties on enumerated articles were very low, and on articles not enumerated only 5 per cent. *ad valorem*. The report also recommended that substantial revenues be provided by the states in proportions to be adjusted; and that the states which had not completed territorial sessions should make them. The report further proposed an alteration in the articles of confederation, by which the ratio of contribution should be thenceforth founded on

the number of inhabitants. Hamilton, from the minority of the said committee, presented a substitute for these resolutions. The duties on imports being assessed at the same rate as before, arms, ammunition, wool and cotton cards, and wire for making them, were excepted, thus exhibiting the first feature of the policy to which he so long adhered, of encouraging domestic industry. In place of the contribution from the states, to be raised in such manner as they should think proper, he proposed a tax on all located and surveyed land, and a house tax, at the rate of half a dollar on each dwelling, in addition to $2\frac{1}{2}$ per cent. on the rental.

Of these he proposed that the duties should accrue to the general benefit of the United States, but that the proceeds of the land and house tax should be credited to the states respectively in which they should be collected.

This plan of Hamilton's, although it cannot but be considered as more equitable than the other, was not admitted as a substitute. He did not on this account withdraw his support and attention from the main object of the resolutions. The proposed change in the articles of confederation, as to the mode of apportioning the contribution of the several states according to the number of free inhabitants, had been coldly listened to. Room had indeed been left for a reduction of the assessment,

by counting only such persons held to servitude as were between ages left blank in the report. An amendment had then been introduced, directing that three fifths of the slaves should be counted; but even with this amendment the whole proposed change of the articles of confederation was stricken out of the report by the united vote of the Southern and Eastern states. That both should have been dissatisfied by it seemed the strongest proof of its equity. Hamilton therefore, three days afterward, moved a reconsideration of the article, and proposed a slight amendment. The reconsideration was admitted, and the amended article passed, Rhode Island alone voting in the negative, the vote of Massachusetts being lost by a division of its delegates; while from New-Hampshire and Delaware no more than a single delegate of each was present, and their votes, which were in the affirmative, were lost. Hamilton therefore appears to have been the prominent instrument in that compromise between the slaveholding and other states which was subsequently adopted in the federal constitution.

On the 18th of March, 1783, the resolutions were finally adopted; and the sum to be raised by the direct contributions of the several states was fixed at a million and a half of dollars. This was apportioned among them in a manner which it may be interesting now to peruse, from the con-

trast which the relative wealth of the several states bears to that which they now possess.

We therefore insert this apportionment :

New-Hampshire . . . \$52,708	Pennsylvania . . . \$205,189
Massachusetts . . . 224,427	Delaware 22,433
Rhode Island 32,318	Maryland 141,517
Connecticut 132,091	Virginia 256,487
New-York 128,243	North Carolina . . . 109,006
New-Jersey 83,358	South Carolina . . . 96,183
Georgia \$16,050.	

A committee was then appointed, composed of Madison, Hamilton, and Ellsworth, to prepare an address to the states, which was brought in by them and agreed to.

This paper is one of great ability, and is accompanied by a number of interesting documents. The first is an exhibit of the debt, amounting to forty-two millions of dollars, and requiring a provision of \$2,400,000 to meet the interest upon it; the third is an estimate of the product of the proposed duties on imports, amounting to little more than \$900,000; the fourth is an extract of letters from Franklin, then ambassador in France, in which, among other things, it is stated that, without a speedy establishment of solid general revenue, and an exact performance of the engagements which Congress had made, the United States must renounce the expectation of loans in Europe; the seventh is a petition from the officers, exhibiting the distress of the army; and the last is the

official history of the celebrated proceedings at Newburgh, which threatened to have altered the whole character of the Revolution, and to have substituted a military government for one of laws and constitutions. These proceedings are worthy of being here noticed. On the 10th of March, 1782, two anonymous papers were circulated in the army quartered in the neighbourhood of Newburgh. The first was a call of a meeting of general and field officers, with a commissioned officer from each company. The second was a most able and powerful appeal to the officers of the army, exhibiting the wrongs and sufferings they had sustained, and the neglect with which their petitions for redress had been treated. It also urged the army, in case of peace, not to lay down its arms until it had obtained redress; or, should the war continue, to retire to some unsettled country, and leave their ungrateful country to its fate.

The manner in which this threatening movement was quieted by the address of the commander-in-chief is a part of the history of the United States; it is, however, claimed for Hamilton that he was consulted by Washington on the occasion, and aided in producing that decisive action by which the danger was removed. In support of this claim we have not only the belief of the immediate friends of Hamilton, but the testimony, in this case unquestionable, of Madison, who, in a

letter written just before the transaction, speaks of the apprehensions entertained of the discontents in the army, and states that Hamilton had written to Washington to advise the proper course for him to take. This course is exactly that which was followed by him. Instead of attempting forcibly to suppress the indignant feeling of the army, he, in his first general order, merely comments on the breach of discipline committed by the call of the meeting, and makes no remark on the proposals contained in the letter. In the place of the meeting called in the obnoxious manner, one is directed to assemble at a subsequent period. This apparent want of decision was seized by the author of the letter, who, in a second address to the army, assumes that Washington has manifested a concurrence in his views. By this prudent and cautious method Washington placed himself in the position of the director of the movement of the army, and was enabled to lead the sentiments of the meeting to a just and patriotic action; while, had he attempted to check its course by the exercise of authority, the event which he dreaded must have occurred, and himself have been the first victim of the lawless action.

It was indeed a fearful moment. Of all parties, Washington himself had the most reason to be dissatisfied; for his recommendations and earnest instances on behalf of the army and its officers

had been neglected, and he had every plausible excuse for placing himself at the head of an attempt to obtain redress. He is, in fact, the first and only instance of a successful general who has resisted so tempting an opportunity to aggrandize himself. It is in this very juncture that he established that lofty character which places him above all mortal men, and separates him from the vulgar herd of military chiefs. He might have been the Cromwell or Napoleon of the Revolution; he preferred a course for which history gave no example, and for which neither former ages, nor the period so fruitful in revolutions which has followed, can afford a parallel.

The news of the signature of the preliminaries of peace followed soon after the adoption of the resolutions and address to the states of which we have spoken. The army was forthwith separated into detachments, which were directed to be removed into the states where they had been raised, and liberal indulgences of furlough were granted.

An event now occurred which showed how great had been the danger to the freedom of the country from the Newburgh letters. A party of soldiers on furlough, belonging to the Pennsylvania line, committed a gross insult upon Congress by assembling in arms in a menacing manner around their place of meeting; and it appeared that a party of eighty more were on their march

from the barracks at Lancaster to join the mutineers. Congress, in consequence, applied by a committee, of which Hamilton was chairman, to the executive council of Pennsylvania for protection by a detachment of militia. This council, with professions of zeal and good-will, declared that the request could not be complied with, partly in consequence of the disorganized state of the militia, but more particularly because the citizens were rather inclined to take part with than to oppose the soldiery. Congress, thus left without protection, saw no step for maintaining its dignity, or even the personal safety of its members, and adjourned to meet at Princeton, N. J., thus leaving Philadelphia with as much precipitation as it had done when the British army under Howe had approached that city.

With his service on the above-mentioned committee Hamilton's duties in Congress terminated. >

The result of this insult upon Congress, and its finding that it could not be protected by the executive of the state in which it sat, was the resolution to obtain the cession of a district in which its subsequent meetings should be held, and in which the militia should be under its own immediate orders. This plan was adopted in the Constitution of the United States, and the present District of Columbia was formed in consequence, on land, jurisdiction over which was ceded by the States of

Virginia and Maryland, and in which the City of Washington was laid out.

The danger to which Congress was exposed from so small a band of mutineers, and the utter inefficiency for their protection of a state so powerful as Pennsylvania, shows how completely the country was at the mercy of the army, which, in the hands of one who sought his own aggrandizement, might have possessed itself of the persons of the delegates to Congress, and overawed the legislatures of the states.

CHAPTER VII.

Hamilton takes up his Residence in the City of New-York.—His Rivals and Associates at the Bar.—Popular Violence directed against the Tories.—Hamilton's publication on this Occasion.—He is chosen a Member of Assembly.—His Agency in the Pacification of Vermont.—Causes which led to the call of a Convention for amending the Confederacy.—Previous Convention at Annapolis.—Hamilton draws the Report of that Convention.

HAMILTON, in attending his duties as a delegate in Congress, made no little sacrifice. His intended profession, in order to be profitable, demanded a fixed residence and undivided attention; the wants of a growing family required that he should derive emolument from practice at the bar. In order to serve his country, he gave up the first, and devoted the whole of his time to the sessions of Congress. It had become very difficult to obtain proper persons to serve in Congress, now that the pressure of danger was over. No state appears to have been represented during 1782 by more than two delegates, and in 1783 the absences became so numerous that it was often impossible to

form a house for the despatch of business, for the want of the representation of a quorum of the states. In fact, the state legislatures, organized in such manner as to express the immediate sentiment of the people, had obtained a moral influence far beyond that exerted by the general Congress, and the aspirants for popular favour sought it through the former rather than the latter channel.

The evacuation of New-York took place in November, 1783. Hamilton immediately removed with his family to that city, and, resigning all other offices, applied himself to the practice of the law. The bar of New-York was at that time feeble in numbers, but powerful in talent. Of those who resumed their labours, now that the war which had interrupted them was over, were Samuel Jones and Richard Harrison, names of no ordinary distinction for learning and eloquence; while among the contemporaries of Hamilton were Brockholst Livingston and Aaron Burr. The latter and Hamilton speedily became rivals, and were not only opposed to each other as counsel, but in the more lasting contests of party.

An opportunity now presented itself for Hamilton to reassert the reputation of a powerful and conclusive writer, which he had attained before hostilities broke out. The articles of peace being signed, not only did those who had been so long

exiled return, but many of those who had continued to reside in the city were anxious to remain within its walls. The latter were very obnoxious to many of the former. They had in some instances borne arms, but had in all exhibited the outward marks of loyalty to the royal authority. Some also, who felt themselves insecure at first, and had retired with the British army to Halifax, began to show themselves in the land of their birth. The State of New-York had manifested a vindictive spirit against the Tories, and had fulminated confiscations and attainders against them. When possession of the city and neighbouring country was regained by the evacuation, these penalties were re-enforced on their estates, and their persons were also threatened with violence by the people.

There were many of those who had been active in the Revolution who did not realize the change from hostilities and the struggles of a civil war to a state of peace and settled government. These were inclined to exercise tyranny over suspected Tories, and inflict punishment upon their persons without the sanction of the law. Tumults arose, in which the lives of the latter were endangered. George Clinton, who then held the office of governor of the state, exerted himself most efficiently to repress the outbreaks of popular zeal. He interfered in person to disperse tumultuous assem-

blies, and in more than one instance protected the real or suspected Tories from violence. It was necessary, however, that a new impulse should be given to the popular feeling, and that the reason of the people should be convinced of the impropriety of the outrages. This office was undertaken by Hamilton, who published in the New-York Gazette a series of papers under the signature of Phocion. These had the desired effect; and the great body of the populace, partly deterred by the determined energy of Clinton, and partly satisfied by the sound arguments of Hamilton, abstained from farther outrage.

In 1786 Hamilton was elected a member of Assembly from the City of New-York. This session was marked by two important measures. The Vermont question was discussed at length, and resolutions taken which put a resort to arms beyond all reach of probability. In the settlement of this important subject Hamilton bore a distinguished part, and introduced broad views of policy to which the discussion had hitherto been a stranger. It had been debated on the ground of strict legal rights; Hamilton brought considerations of national policy to bear upon it.

The happy result of the Vermont question has been universally and justly ascribed to the exertions of Hamilton. Nothing could exceed the wisdom of the measures he proposed; and these

were rendered victorious in the Legislature by the influence of his character and the power of his eloquence.

During the session of 1786, the State of New-York took the earliest step towards an amendment of the articles of confederation, and thus led the way in the proceedings which terminated in the adoption of the federal Constitution.

These articles, which had been formed in haste and on the spur of the occasion, had produced a certain degree of good; but this is rather to be attributed to the pressure of a common danger, which gave to the proceedings of Congress an authority which was not granted in terms. The Congress, which, as has been seen, had at first exerted powers of unrestrained sovereignty, gradually fell to the level of a mere council of independent states, whose decisions had none of the authority of law, and whose recommendations were disregarded as soon as the necessity of combating a common enemy had ceased. In spite of the urgent instances of Congress upon the states to provide a permanent revenue, and to create a uniform rate of duties upon imports, to be pledged for the payment of the principal and interest of the debt, the resistance of the petty government of Rhode Island had defeated the measure, and the more powerful states withdrew the assent they had at first granted. The individual states, so far

from applying the means in their possession, and which they refused to the general use, in providing for their own debts, continued the ruinous issue of paper money, which rapidly depreciated, until in some instances it ceased to have even a nominal value. The exchanges were so deranged that the remittance of money from one part of the country to another became almost impracticable, and commercial jealousies began to spring up, which led to countervailing measures calculated to place the members of the confederation in the attitude of foreigners and rivals to each other.

The country, on the return of peace, had anticipated a renewal of the traffic it had formerly carried on, with the addition of a trade with countries, to which, by the British navigation acts, its ships and commodities had been denied access. This hope was completely disappointed. The supply of the West India possessions of Great Britain with lumber, provisions, and live-stock had formerly been a trade of much importance; but, although these islands had suffered in as great a degree from the suspension of intercourse as the colonies which had become independent, they were not allowed to repair their losses by a resort to the productions of the United States. For a time, indeed, their necessities were so great that the civil authorities were compelled to wink at an illicit trade. The officers of the British navy, however,

were deterred by no such considerations, and saw in the growing trade a prospect of prize-money from seizures more alluring than captures in actual war. By a single operation, planned by Nelson, all the vessels trading with the British colonies in the West Indies from the United States were seized.

The fisheries might still have flourished, but the original markets had been closed against them, and new ones had not yet been opened. The whale fishery had been sustained by a bounty from the British government, the loss of which was sensibly felt; and colonies of the hardy seamen trained in that art had been established in both England and France, to be the rivals of the ports whence they had emigrated.

The treaty of peace with Great Britain had made provision for the collection of debts due to subjects of that country before the breaking out of the Revolution. This provision was frustrated by the laws of several of the states, which forbade the recovery of such debts. No tribunal existed in which the terms of the treaty could be made a plea, nor any constitutional provision making treaties the supreme law. Individual cupidity, conspiring with popular prejudice, prevented the repeal of the obnoxious acts, and Great Britain was thus furnished with a pretence for refusing to give up the posts she held in the Western coun-

try. By these she controlled and influenced the Indians, whom the traders of Canada furnished with arms and excited to hostility.

No sooner had the flag of the United States made its appearance in the Mediterranean, than the pirates of the Barbary coast, seeing it unprotected by a navy, and having received, as was then yielded even by the most powerful maritime nations, no tribute as the price of forbearance, pounced upon it, making prize of vessel and cargo, and carrying the crews into bondage.

The very opening of the war found the country exhausted of all the foreign manufactures which are necessities of civilized life, in consequence of the agreements of non-importation ; the occasional superiority of the French fleet had allowed the importation of some of these from that country, but they were of a character foreign to the taste and habits founded on the use of British fabrics.

Manufactures of limited extent had sprung up, but they were inadequate to supply more than a small part of the domestic demand. The peace, therefore, found the population greedy for British manufactures, and the first adventurers in those articles realized enormous profits. The manufacturers of Great Britain, thus stimulated, poured in a vast amount of their goods. The merchants of the seaports of the United States purchased these with avidity on credit, and gave credits to the

traders of the country, who also sought these ~~fa~~rics with greediness. The supply, however, vastly exceeded the means of payment in the impoverished state of the country. In the first place, the whole of the precious metals were swept away, the goods were next offered at large sacrifices, and those who had laid in stocks were ruined by the depreciation and by the inability of the purchasers at second hand to collect from their debtors.

Public and private credit were thus equally prostrated. The opponents of the Revolution began to exult over it as a failure, and contrasted the prosperity enjoyed as colonies with the impoverished state of the independent republics.

The people themselves became restless and dissatisfied with their condition. The states, in denying power to Congress, had not strengthened their own. We have seen that the executive of Pennsylvania could not muster a force sufficient to defend Congress from the insults of a few mutineers, and the other states were not more powerful. Imboldened by this feebleness of the government, an insurrection broke out in the western part of Massachusetts which threatened to destroy the supremacy of its laws. This rebellion, known from the name of its leader, Shay, was suppressed with difficulty, and furnished the enemies of civil liberty in Europe with a text whence they des-

canted on the utter inefficiency of a republican form of government.

The state of things we have described impressed lessons of the most salutary character on the people. It was at first popular to refuse to contribute by taxes and imposts to the support of government. Independence seemed to be achieved by a species of miracle, by the sole resource of a credit which failed as soon as the emergency was over. The suffering fell, as was necessary, in the first place, upon the army, and on those who were rich enough to loan money to the government, or were compelled to accept its paper and engagements in payment of debts due to them. It next reached the merchant and master manufacturer, whom the mechanical workmen and day labourers, by some strange obliquity of reason, regard with jealousy, and whose distresses were rather rejoiced over than pitied. Even the agricultural classes did not sympathize with those who, labouring at the desk or borne down by the cares of traffic, are, notwithstanding, excluded in vulgar opinion from the list of working-men or productive labourers.

The sound wisdom which dictated the fable of the belly and the members is, however, more applicable in our country than in that where it quelled the sedition of the plebeian order. When the resources of the capitalist are impaired and

his confidence is diminished, the trader and manufacturer speedily feel the shock; the distress is propagated more slowly to the mechanic and farmer, and strikes the labourer last of all, but at each successive step the blow is more violent. Those possessed of solid wealth feel no more than the nominal reduction of their funds, which is more than compensated by an increase in the rate of interest, and a fall in wages and the prices of articles of luxury; while he who looks to daily labour for the means of subsistence finds a diminution in the opportunities of occupation, and is not only in the receipt of wages lower, even when estimated in food and clothing, but is often left without employment.

In the instance before us, the universal prevalence of distress brought the community to a sense of the truth of the warnings which the sages of the Revolution had so repeatedly uttered, predicting that the downfall of public credit would be surely followed by individual distress, and that the want of an efficient superintending government would certainly react to the destruction of private happiness. There were not wanting ambitious politicians who stood in opposition to these salutary, but, for a time, unpopular truths; but their influence was on the wane, and many of them were, with nice instinct, preparing to support measures which were soon to be carried by popular acclamation.

The separate states had derived their territories from the charters of the British government, and were included by boundaries having no reference to natural advantages or to the facilities of foreign commerce. Some of them, therefore, were in possession of the great marts of commerce, while others were compelled to receive all their supplies of foreign goods through the former. Thus New-Jersey, situated between the great emporia of New-York and Philadelphia, paid to those states a duty on all its consumption of imported merchandise, without having the means of counter-vailing the tax. North Carolina was in the same position in respect to Charleston and Norfolk; and, at the time of these discussions, Rhode Island imported for Connecticut and the western part of Massachusetts.

The embarrassments of trade and the consequent distresses, seem to have been the influential causes in leading to the call of the convention by which the present Constitution was formed. The State of Virginia had attempted to retaliate on Great Britain for the heavy tax to which her staple was liable on entrance into that country, and had thus driven the trade into Maryland. Maryland, however, was, for like reasons, disposed to make common cause with Virginia; but it was found that the only effect of its adhesion to this policy would be to cause the importations to be made through Delaware and Pennsylvania.

In view of this subject, the commissioners appointed by Maryland and Virginia to settle a disputed boundary had recommended a uniformity in the commercial regulations of the two states, but had seen the necessity of including the other two states which have been mentioned; and it was obvious that similar reasons would require that Jersey and New-York should unite in the same policy. It was, in consequence, resolved by the Legislature of Virginia, that commissioners should be named to meet such as might be appointed by other states of the Union, for the purpose of taking into consideration the state of trade, and examining how far a uniform system in their commercial regulations might be advisable. A convention, in consequence, met at Annapolis in 1786, which was attended by delegates from five states, namely, Virginia, Maryland, Delaware, Pennsylvania, and New-York. Hamilton was among the commissioners of the latter state, and took a decided lead in the proceedings. This convention declined to execute the limited task assigned to it, and determined to recommend the calling of a new convention, with powers adequate to meet the general exigences of the Union. A report was in consequence adopted and addressed to the legislatures of the five states represented in the convention. Of this report Hamilton was the author. After stating that it was not considered advisable

to proceed on the business of the session under circumstances of a partial and defective representation, the report goes on to say, "that the power of regulating trade is of such comprehensive extent, and will enter so far into the general system of the federal government, that to give it efficacy, and to obviate questions and doubts concerning its precise nature and limits, may require a correspondent adjustment of other parts of the federal system."

After intimating that national circumstances exist "of a nature so serious as to render the situation of the United States delicate and critical, and calling for an exertion of the united virtue and wisdom of all the members of the confederacy," the report closes as follows:

"Your commissioners beg leave to suggest their unanimous conviction, that it may essentially tend to advance the interests of the Union, if the states by which they have respectively been delegated, would themselves concur, and use their endeavours to procure the concurrence of the other states in the appointment of commissioners, to meet at Philadelphia on the second Monday in May next, to take into consideration the situation of the United States; to devise such further provisions as shall appear to them necessary to render the Constitution of the federal government adequate to the exigences of the Union; and to report such

an act for the purpose to the United States in Congress assembled, as, when agreed to by them, and afterward confirmed by the legislatures of every state, will effectually provide for the same."

The plan of a convention of the states for the adoption of a more close and federal union, which had been proposed by Hamilton in his letters to Morris and Duane, was thus, by his instrumentality, brought before the states in a manner which carried with it enough of authority to require some definite action.

CHAPTER VIII.

Federal Convention assembles at Philadelphia.—Resolutions offered by Edmund Randolph.—Resolutions of Judge Patterson.—Plan offered by Pinckney.—Hamilton's great Speech in the Convention, in which he offers a Draught of a Constitution.—Examination of its Features.—The Delegation from New-York retires from the Convention.—Hamilton alone returns and resumes his Seat.—Franklin's Speech.—Hamilton urges that all the Members should sign.—Hamilton's Speech on that Occasion.—Consideration of his Services in framing the Constitution.

THE public did not hesitate to ascribe to Hamilton the principal agency in procuring the report of the Convention at Annapolis. He was therefore lauded by some and decried by others, according to their feelings on the question, as the founder of the Union which superseded the confederacy. More recently, when all parties have united in admitting the merits of the federal Constitution, his claims have been disputed. We conceive, however, that it is too late to bring forward names to divide or divert the honour

from him. So long as it was questionable how far the popular voice would sanction the new Constitution, these claims were not advanced; while Hamilton boldly, and on all occasions, maintained, even in opposition to the voice of the majority of the community of which he was a member, the wisdom and propriety of forming a strong and efficient government in the place of a feeble confederacy. His colleagues in the Annapolis Convention saw in the change pointed at in their report a scheme likely to enhance their local popularity; Hamilton could not have been unaware that he would have to encounter a powerful opposition in the state which he had represented.

The other members of the Annapolis Convention were natives of the states by which they were delegated, and, particularly in the case of Virginia, entertained feelings of state pride and local partiality which were ill suited to the discussion of the subject committed to them on broad and national grounds. Hamilton was perhaps the only one of the members who was free from such influences. He had made the general cause of the states the object of his exertions, had no partial attachments derived from circumstances of birth or early associations; he had become a resident of the United States at an age which permitted him to forget his more early ties, and yet too advanced to give him for any particular spot the feelings of

a native. He was thus enabled to view the question of trade in reference to principles of general utility ; and it happened most fortunately, that the local interests of the powerful State of Virginia were at that time in obvious accordance with those of the states as a nation.

By a resolution of the Annapolis Convention, their report was communicated, not only to the states represented in it, but to the others, and to Congress. Virginia was the first state which acted upon the report ; and by a vote of the Legislature almost unanimous, a deputation was named to attend the Convention in Philadelphia. As a proof of the importance attached to the object, Washington himself was placed at the head of the delegation, and Edmund Randolph, who had just filled the office of governor, was associated with him. Among the other members from Virginia was James Madison, who had already distinguished himself in the Legislature of his native state and in Congress, and who had been a member of the Convention at Annapolis. Eleven other states speedily adopted similar resolutions ; but Rhode Island did not appoint delegates. Hamilton was named by the State of New-York along with Robert Yates and John Lansing, Jr.

The Convention assembled at Philadelphia on the appointed day, when the delegates of nine states assembled, namely, Massachusetts, New-

York, New-Jersey, Pennsylvania, Delaware, Virginia, North and South Carolina, and Georgia. In a few days the members from Connecticut and Maryland made their appearance, but those from New-Hampshire did not attend until the 31st of July.

It has rarely happened that an assembly has ever met embodying so much dignity of character and talent. Proudly conspicuous among their fellows were Franklin and Washington, and with them are recorded the names of King, Patterson, the two Morrises, Wilson, Fitzsimmons, Edmund Randolph, Madison, Wythe, and the two Pinckneys. To these were speedily added Strong, Ellsworth, Gerry, and Governor Livingston.

The choice of the meeting might well have hesitated between Franklin and Washington as the presiding officer; but all difficulty was at once obviated by a motion from the State of Pennsylvania for the appointment of the latter. On the motion of Hamilton, Major Jackson was chosen secretary.

Before the Convention thus organized, the delegates of Virginia, through Governor Randolph, laid a series of resolutions embodying the principles of a federative government. These were made the basis of discussion. A few days afterward another scheme was presented by Charles Pinckney of South Carolina. It is, however, stated by

Madison, in a note to the proceedings of the Convention, that the published paper is not the original form presented by Mr. Pinckney, but that the manuscript bears marks of having been interlined with details which grew up during the proceedings of the Convention.

The resolutions offered by Governor Randolph were fifteen in number; they proposed, a right of suffrage proportioned to the quotas of contribution or the number of free inhabitants; a national legislature in two branches, the first to be elected by the people of the states, the second to be chosen by the first out of candidates named by the state legislatures; a national executive, with a council of revision; and a national judiciary.

The first proposition was a change in the whole system of the confederation, in which the states had hitherto possessed an equal voice, however different in population or in wealth. It also excited the question of slavery, as in its very terms it left open the discussion, whether that part of the population was to be counted in apportioning the number of representatives. After much discussion, the ratio which we have seen had been proposed by Hamilton in the Congress of 1782, namely, the addition of three fifths of the slave to the free population, was adopted. The smaller states, however, seeing their proportional influence was thus to be lessened, determined on an effort to

retain it. In this they found assistance from Hamilton's colleagues in the New-York delegation, and thus secured the vote of that state in their behalf. At the instance, therefore, of the states of Connecticut, New-York, New-Jersey, and Delaware, with one of the members from Maryland, Judge Patterson offered a counter project to the plan of Governor Randolph. This proposed, as additions to the powers already vested in the Congress of the confederacy, the authority to raise a revenue by import duties, stamps, and postages; the right of regulating commerce with foreign nations and between the states; the power of enforcing requisitions, according to the ratio of Hamilton, by making laws for the collection in case the states should neglect to comply. It also proposed a federal executive and judiciary, and that treaties should be the supreme law of the land.

It was evident that the principles of the two propositions of New-Jersey and Virginia were wholly incompatible. The first maintained the equality of states differing vastly in wealth and population, and gave to their representatives in Congress powers of great magnitude, which it would have hardly been possible to exercise in such manner as to secure the support of a majority of the numbers of the people. The second swept from the national government all trace of the individual sovereignty of the states, and must,

had it been carried, have reduced them to the level of mere corporations. It comprised, in addition, the power of negating acts of the state legislatures, and of employing force to coerce refractory members of the Union. Such were the views of the statesmen of Virginia at this epoch, and Madison fully concurred with his colleagues.

By a number of votes, each preceded by a long discussion, the articles proposed by Mr. Randolph had been materially modified, while the plan of Mr. Patterson had received the support of no more than four states. Nothing had been done, after a session of more than three weeks, towards the details of a constitution; and opposition to those parts of the project of Randolph which tended to regulate the distribution of the vote in both branches by numbers and not by states, seemed to be increasing. The prospects of a favourable result appeared to be small; for, even should the smaller states be outvoted in the Convention, they would probably refuse to accept a constitution founded on the propositions of Randolph. Hamilton had hitherto been a silent listener to the debates, partly, as he himself stated, from respect to the abilities, age, and experience of the other members, and partly from his delicate position in relation to his colleagues, with whose sentiments he could not agree. Randolph had at last expressed almost absolute despair of the success of

the Convention, and Hamilton could no longer refrain from uttering his sentiments. His speech occupied six hours, and is said to have been one of his greatest performances. Nothing, however, has been preserved of it in a published form, except a meager report in the minutes of the debates kept by Madison. From this it is impossible to form any just opinion of the eloquence and argument it is said to have exhibited. In the course of the speech a written paper was read, comprising his views of the form of government and kind of constitution he would have proposed, and parts of which he had it in contemplation to offer as amendments to the propositions of Mr. Randolph. Of this paper a copy is said to be given in the published journals and in the debates by Madison. It does not, however, appear probable that this can be more than a mere synopsis, and a variety of evidence leads to the conclusion that the paper actually read by him is that which is given by Madison in the appendix to his posthumous work. Of this the propositions in the journals are evidently an abstract, and it seems to have been admitted that a different plan was subsequently proposed by Hamilton of a more practicable character. The first scheme appears to have been his *beau ideal* of a government, which he did not even offer as a subject of discussion to the Convention. Taking the British

Constitution as the best model of government which the world had then seen, he seems to have endeavoured to fit it to the circumstances of the people of the United States, and by throwing out all its corrupt, its aristocratic and royal features, to give it the most liberal character consistent with efficiency.

The fundamental feature of this scheme is a popular legislative body, to be elected by the votes of all the free white male inhabitants of the several states of the Union, for terms to be fixed by law, but not to exceed three years. In this popular branch, thus frequently brought before their constituents, all bills for raising revenue, for appropriating moneys to pay fleets and armies, and for paying salaries, were to originate; but they might be altered or amended in the other branch of the Legislature. In this, the democratic part of his proposed constitution, he went far greater lengths than the Convention did finally; for, although that body adopted the mode proposed by him for apportioning the members of representatives among the states, it left the right of suffrage to be regulated by the local laws, which at that time required freehold qualifications in many of the states. The plan went even as far in the election of the popular branch of the Legislature as has been done in the late extension of suffrage by the new Constitution of the State of

New-York. It seems strange that the framer of such a project should have been afterward stigmatized as a monarchist and an enemy to the popular cause.

The Senate was intended by him to be a body capable of giving stability to the government, and of controlling the changes in policy which might result from the frequent popular elections of the lower house. To meet this requisite he proposed that the members should hold their seats for life and good behaviour. They were to be appointed by electors chosen by the freeholders; but there was no limit to the requisite landed property, so that the smallest possible possession would have given a right to vote. It was in the apportionment of the numbers of this Senate among the states that his refined policy is most obvious. The election being made by districts, every state, however small, was to constitute a district, while the larger states were to be divided into two or more districts. The members of the Senate being limited to four tenths of those of the House of Representatives, it is obvious that the smaller states would have enjoyed more than a proportionate representation, while the larger would not have had reason to complain, as they may at present, that their power and numbers do not give them an adequate influence. Yet the numerous representation in the Senate of the larger states would

not have been objectionable in consequence of the system of districts, and the votes being by persons, and not, as in the old Congress, by states. While we may doubt how far it would have been expedient to have adopted the tenure for life in the office of senator, we must avow our belief that the mode of apportioning the numbers of this branch of the Legislature proposed in this scheme would have been more advantageous than that which was adopted. To the Senate, so constituted, the exclusive power of declaring war was given, and treaties were to be made with its advice and consent. The Senate was to choose its own presiding officer, who was to be *ex officio* vice-president of the Union, and the temporary occupant of a vacancy in the presidency.

The tenure for life of the senators was not as repugnant to the feelings of the day as it would at present appear. It was universally admitted in the Convention, and the public voice sanctioned the opinion, that the term for which the senators were elected should be long enough to enable them to fulfil their duties independently, and without any reference to popular excitement of a temporary character. The doctrine of instructions, under which votes have been given in opposition to the conscience of the senator, was not then invented; and there is every reason to believe that this part of Hamilton's plan might have been favourably

entertained by the Convention, had it not appeared to be liable to attack from those opposed to the Constitution on other grounds.

The president was to have been chosen by electors, of the same number, and in the same manner as the present Constitution points out, but the qualifications of the voters were to be the same as in the case of senators. A more artificial mode than has been adopted of verifying the votes of the electoral colleges, and meeting the case of no candidate having a majority of the whole votes, by means of a college of second electors, to be assembled at the seat of government, under the presidency of a judge of the Supreme Court, was proposed. This is not liable to the objections to which the choice by the House of Representatives in case of no election by the colleges, is obnoxious.

The tenure of the president's office was to be the same as that of a senator, until death, resignation, or impeachment. He was to have a negative on all bills, resolutions, and acts; to have the power of proroguing the Legislature for forty days; to be commander-in-chief of the army and navy; to have the absolute appointment of the heads of the four great departments of foreign affairs, navy, army, and finance; and, with the consent of the Senate, the nomination of all officers not otherwise provided for in the Constitution; he was

to have the power of pardon except in cases of treason, which was to require the concurrence of the legislative bodies. These high powers were, however, to be limited by his being prevented from exercising any control over the public purse. The planning of the ways and means fell within the duties of the head of the financial department ; but the actual custody of the money, in order to its expenditure according to specific appropriation, was to be vested in a treasurer chosen by the Senate and House of Representatives ; and the choice was not subject to the veto of the president. This provision was incorporated in the earlier draughts of the Constitution adopted by the Convention, but was finally stricken out ; probably because it was thought that the management of the finances was inseparable from the custody of the money.

The tenure proposed in this plan by Hamilton for the office of president, is probably the reason why his political opponents in after days stigmatized him as a monarchist ; and it is obvious that the stability of the government might have been threatened in the case of a president for life becoming obnoxious to the people. Hamilton, however, while he did not exempt the president from impeachment, or adopt the feudal doctrine that the king can do no wrong, gave him the sole power of appointing his cabinet. By this provision that officer would have had the opportunity, without loss

of consideration, of changing his official advisers, and thus of adapting his course of action to a compliance with the popular will, expressed through the House of Representatives ; and the latter body had absolute power of coercion over the heads of departments, the Senate, and the president himself, in the right of originating annual bills for the payment of their salaries. Under the present Constitution, opposition or delay in the passage of appropriations for the support of government may be stigmatized as factious and unpatriotic, while, had the president held his office for life, they might have in many cases secured praise as a legitimate mode of popular resistance to an unpopular ruler.

In making the term of the president's office no more than four years, and permitting him to be re-eligible, as in the existing Constitution, the whole policy of the country, and all the divisions of party throughout the Union, have been made to hinge on the presidential election. The president himself, during his first term, strains every nerve to secure a re-election ; while, during the second, he is either engaged in intrigues to secure the succession of a favourite, or gives up his proper and legitimate influence to the candidates. Questions, however important they may be in their own merits, are considered wholly in reference to their bearing upon the contest for the presidency. A

good and wise measure will be opposed for fear it should increase the popularity of the person who proposes it, and plans of doubtful expediency will be urged for the sake of enlisting popular feeling on the side of the administration. The evils of the present system are obvious by trial; what might have been those which would have attended an election for life, conjecture can alone exhibit.

The objectionable part of this scheme of Hamilton's lies in its requiring the chief magistrates of the several states to receive their appointment from the administration of the general government. He must, in proposing this, have foreseen the case of the legislative bodies of a state placing themselves in opposition to the general government. The remedy, however, appears to be of a nature that would tend rather to widen than to close the breach; for the veto of a chief magistrate, deriving his power from an extrinsic source, would have been likely to unite all parties in the individual state. The scenes which were enacted between the governors and legislatures of the crown colonies would probably have been renewed by such a provision.

The merits of this proposed constitution in point of style are very great, and in this respect it certainly exceeds that which has been adopted; it has also evidently exercised no little influence upon the details of the latter.

The other members of the New-York delegation retired from the Convention as soon as it was decided, beyond the chance of revocation, that the representation should be apportioned upon another principle than that of equality among the several states. Hamilton, finding that the vote of the state was thus lost, retired also, although from very different motives. His return was caused by a letter he received from the president of the Convention. In this, Washington informs him that the counsels of the Convention were, "if possible, in a worse train than ever;" that he despaired of "seeing a favourable issue to the proceedings;" and therefore "repents having any agency in the business." He finally states his sorrow that Hamilton had gone away, and his wishes for his return.

Hamilton could not resist this appeal, and again took his seat in that body, where he aided in no small degree in bringing its labours to a happy conclusion.

The importance of his services cannot be understood from the published minutes, nor from the more copious report of the debates. They have, however, been demonstrated by the testimony of one of the members* in the following terms.

"If the Constitution should not succeed on trial, Mr. Hamilton was less responsible for such a result than any other member; for he fully and

* W. S. Johnson, LL.D.

frankly pointed out to the Convention the infirmities to which it was liable: and if it answered the fond expectations of the public, the community would be more indebted to him than to any other member; for, after its essential outlines were agreed to, he laboured most indefatigably to heal those infirmities, and to guard against the evils to which they might expose it."

Much of the real business of the Convention does not appear on the minutes; for it consisted in the reconciliation of opposing interests, in anticipation of the vote and argument before the formal meeting. The questions which disturbed the harmonious action of the Convention were as follows:

1. The equality of the votes of the respective states, as distinguished from a representation in proportion to population.

2. The representation of the slave population, which, it was urged on the one hand, ought to be excluded altogether, and, on the other, that it ought to be counted in full.

3. The question whether the importation of Africans should be permitted or prevented.

So irreconcilable did the opinions of the members from different sections of the country appear on these questions, that, after four or five weeks spent in fruitless discussions, Franklin, the Nestor of the Convention, inquired, "that, groping, as it were, in the dark to find political truth, and

scarce able to distinguish it when presented, how it had happened that they had hitherto not once thought of humbly applying to the Father of Lights to illuminate their understandings ?”

“ We have been assured,” said he, in continuation, “ in the sacred writings, that, except the Lord ‘ build the house, they labour in vain that build it.’ I firmly believe this; and I also firmly believe, that without his concurring aid we shall succeed in this political building no better than the builders of Babel. We shall be divided by our little partial interests; our projects will be confounded; and we ourselves shall become a reproach and a by-word down to future ages; and, what is worse, mankind may henceforth, from this unfortunate instance, despair of establishing governments by human wisdom, and leave it to chance, war, and conquest.” He, in consequence, moved that the meetings of the Convention be opened by prayer.

In the closing scene of the Convention Hamilton strenuously urged upon all present to sign the Constitution that had been adopted by a majority of the members, and by a unanimous vote of the states represented. In corroboration of his appeal he stated his own case, who did not assent in his judgment to the plan as adopted, and yet had determined to sign the instrument, and maintain its excellences in opposition to gainsayers.

It is very evident that his expressions of dissatisfaction with the provisions of the Constitution refer not to the practical working of the instrument, but to the difference between it and the model of perfection he had formed in his own mind. He had, indeed, combated those who differed from him in their views step by step, in the hopes of amending its provisions, or of introducing changes more likely to render the government stable and efficient ; but he unquestionably agreed with Franklin in the opinion which that venerable patriot pronounced, that it was the best which could be carried, nay, perhaps the best for its objects which could be framed.

We have thus seen that Hamilton was the first to propose an amendment to the old articles of confederation by a convention of the states ; that he in various ways rendered efficient aid in awakening the public mind to the importance of a more firm union, and of the necessity of a general government which should emanate from, and act directly upon, the people ; that he was the framer of the address of the partial Convention at Annapolis, in conformity with which the general Congress recommended the Convention of 1789, and the several states appointed delegates ; that he was an active member of the latter Convention, and the first to propose a constitution in such a form as could have been carried into effect.

His admirers have therefore been fully warranted in claiming for him a conspicuous agency in giving to the country the blessings it now enjoys, of a stable, energetic, and yet popular form of government.

CHAPTER IX.

Discussions in respect to the Federal Constitution.

—Hamilton unites with Jay and Madison in writing the Federalist.—Letters of Philo-Publius.—State Convention at Poughkeepsie.—Hamilton is a member of that Convention, and takes an active part in its Proceedings.—The Federal Constitution Ratified by that Convention.—Reflections on the Constitution.—Change of Popular Feeling, and Rejoicings in New-York on its final Adoption.

No sooner had the Convention completed its labours, and the proposed Constitution been given to the public, than discussions arose in relation to the propriety of adopting it. The great majority of the members of the Convention had, in signing it, abandoned all their individual views, and, satisfied that it was the best plan of government which could be obtained, resolved to unite all their energies in procuring its ratification by Congress and by the Conventions of the States. There were, however, some members of the Convention, belonging to the party which had desired to retain the equal influence of the states in the government, who had not signed, or had even withdrawn

before the declarations were closed. These carried to their homes a feeling hostile to the proposed Constitution, and the disposition to arouse an opposition to its ratification. Among these were Hamilton's colleagues from New-York, who represented the feelings and wishes of the administration of that state.

It was apparent that the refusal of New-York to join in the federal union would be fatal to the plan. No other of the states which appeared to be opposed to it had equal power, or had such advantages of position as would render a union among the others nugatory. The majority of the delegates from the other eleven states had acquiesced finally in the draught of the Constitution, and had assented to the compromises which had ensured its adoption; the New-York delegation had withdrawn from the Convention; and, although Hamilton returned and had signed the Constitution as a delegate, by rules borrowed from those of the old Congress, more than a single delegate was necessary to give a state a vote.

It was, for the above reasons, admitted on all hands that the battle for the Constitution was to be fought in New-York, and that it could only be gained by the overthrow of the influence of the governor of that state and a change in the popular sentiment. To effect these objects would require great talent, skill in the management of

men, with ability in the exhibition of the advantages to flow from the Constitution, and of the dangers to be apprehended from its rejection.

Hamilton saw, and felt more clearly than any other person, how important was the ratification of the Constitution by the state he had represented; and no sooner had the Convention adjourned, than he undertook the task of exhibiting these advantages on the one hand, and dangers on the other, to the people of the State of New-York directly, and, through them, to the citizens of the remainder of the states. For this purpose he commenced the publication of a series of papers in the New-York Gazette, under the signature of *PUBLIUS*. In these, addressed to the people of the State of New-York, he proposed to consider "the utility of the Union to their political prosperity; the insufficiency of the existing confederation to preserve that Union; the necessity of a government, at least equally energetic with the one proposed, to the attainment of that object; the conformity of the proposed Constitution to the true principles of republican government; its analogy to the Constitution of their own state; and, lastly, the additional security its adoption would afford to the preservation of that species of government, to liberty, and to property."

Well aware of the vast interests at stake, Hamilton was unwilling to rely upon his own strength

for the illustration of these important topics; he therefore sought and obtained able coadjutors. The opening number of the series is immediately followed by four written by John Jay, and the same veteran statesman contributed a fifth in the course of the publication. A far greater amount of assistance was obtained from Madison, who, according to memoranda left by Hamilton in his own hand, and which are deposited in the New-York Society Library, wrote thirteen of the numbers, and was the joint author of three more. Madison has himself claimed a greater share in the authorship of these papers, and we thus have the conflicting claims of these two distinguished men, each under his own hand.

It is stated that Hamilton's papers contain conclusive evidence that the ideas and even the language of the disputed letters are to be found in briefs prepared by him for speeches delivered in the Convention. If this be the case, the ground of the conflicting claim will be apparent, and the discrepancy reconciled; for Hamilton may well and justly have claimed authorship in papers drawn up by Madison from his memoranda. At all events, even were Madison's claims admitted to its utmost extent, Hamilton will still retain the honour of being the projector of the publication, and of having contributed the greater part, as well as the most valuable, of the papers of *Publius*.

These papers were not permitted to remain unanswered, and several able writers arrayed themselves in opposition to their arguments, and to the adoption of the Constitution itself. These replies are rarely alluded to in the course of the numbers; but a separate series, under the name of Philo-Publius, was commenced in another newspaper, to which the task of rebutting objections was confined. The original plan of Publius was thus carried out without deviation, while all the necessary illustrations, and the refutation of all opponents, made their appearance in the other series. In this Hamilton also took the lead, but received assistance from various other quarters. Among the writers of Philo-Publius is particularly to be named Colonel Duer, who undertook the subject of finance, and exhibited much ability in the controversy.

The plan of dividing the subjects likely to be of general and lasting interest from those local and general, has been attended with happy results. The papers of Publius have been collected and published, while those of Philo-Publius ceased to be remembered as soon as the occasion which called for them had ceased to exist. Had the whole been united in one series, it would have been so cumbrous, and loaded with so much matter wholly irrelevant at the present day, that it would probably have found but few readers; but,

by confining the series of Publius to the objects stated on setting out, these papers, collected in two volumes under the name of "The Federalist," have gone through many editions, and are the best commentary which has yet appeared on the provisions of the Constitution.

These letters of Publius have therefore determined the sense of all doubtful passages in that instrument. They are now consulted by all parties as authority, and are the ablest exposition of its general features which has yet appeared.

The letters of Publius were not allowed to remain unanswered, and the anti-federal press teemed with paragraphs and pamphlets condemning the proposed Constitution. These were not without their effect in confirming many in their old prejudices; but the Federalist carried conviction on all the most important points to the great body of the people. It thus happened, that although the majority of the New-York State Convention, which was convened to deliberate on the propriety of adopting or rejecting that instrument, was in favour of the latter alternative, it was yet under the necessity of giving its provisions a patient hearing, and of submitting the question to the test of argument rather than of party feeling.

Hamilton was chosen a member of this Convention, which assembled at Poughkeepsie. He, with all who were committed in its favour, counted no

more than ten votes, while its opponents were nearly four times that number. But he had with him Jay and Chancellor Livingston, who were in themselves a host.

On the opening of the Convention, Chancellor Livingston, who, from high station and long public service, deservedly claimed to be placed in the front of the federal party, moved the consideration of the instrument by sections. The great question of acceptance or rejection was, by the adoption of this motion, left to the close of the proceedings instead of being encountered at the beginning. In the discussion, thus adroitly commenced, the majority became committed to the general policy of a more close union of the states, and the questions were confined to the detail. The opponents of the Constitution thus wasted their strength in the proposal of amendments and changes. Many of these, and among the rest a bill of rights, were unobjectionable in themselves, and only to be opposed on the ground that they were in fact unnecessary, as being implied or covered by the common law.

It now became a matter of consideration whether they should be adopted by the Federalists with a view of conciliation, or opposed. The latter policy prevailed, it being discovered that a ready acquiescence would have caused new grounds of objection to be sought for. In the discussions

which were thus protracted, every occasion was seized by Hamilton to portray, with all the powers of his eloquence, the advantages of union, the dangers of a broken confederacy, and the other evils which would follow in case the Constitution were not adopted. Every means of conciliation and compromise that could be employed were exhausted, until the majority was broken into two parties, directed by different motives. During the debates, the news of the ratification by other states were received in succession, until finally it appeared that the condition upon which the Constitution was to go into effect had been fulfilled, and that New-York was likely to be left almost alone if it should refuse to enter into the federal Union.

Finally, after a long and protracted discussion, the Convention of the state adopted the Constitution unconditionally. In the instrument of ratification, however, a declaration of rights is inserted, as explanatory and consistent with the Constitution; full confidence is there expressed that, until amendments for the purpose be made in the Constitution, the militia shall not be called to serve out of the state for a longer term than six weeks without the consent of the Legislature; that Congress will not make or alter any law of the state in relation to the election of senators and representatives in Congress, unless the state Legislature shall neglect or refuse to make provision in the

premises; that no excise should be laid except on ardent spirits; that the general government should not levy direct taxes, unless a requisition had first been made and neglected.

To the instrument of ratification is appended an injunction on the representatives of the state in Congress to use their exertions to obtain certain amendments to the Constitution, including the foregoing points. These proposed amendments contain, in addition, a restriction of the right of sitting in Congress to native-born citizens, and those of foreign birth already possessed of the right of citizenship; a clause forbidding monopolies; others prohibiting standing armies in time of peace, without the consent of two thirds of both houses; and forbidding the borrowing of money or the declaration of war except by a similar vote. Of the amendments thus proposed several were speedily brought forward, and, after a compliance with the mode prescribed in the Constitution, were ingrafted on that instrument.

It is remarkable, that, among all the objections urged and amendments proposed to the federal Constitution at the time of its ratification, none of those which have become apparent in its action were pointed out. With all its defects, it is, beyond doubt, the most perfect plan of government which has ever been formed by a written instrument. The democratic principle, which bears

such sway in the composition of the House of Representatives, is so well balanced by the influence of state sovereignties in the Senate, the responsibility of the executive is so adequate on the face of the instrument to the great extent of its powers, and the whole so justly controlled by an independent judiciary, that the jurisconsult can hardly detect a flaw. Nor has its working been less admirable than its theory; and foreign nations still look with surprise to the spectacle of a country possessed of unbounded personal freedom, in which the law is administered to the adequate security of life, liberty, and property, without the semblance of physical force to maintain it.

Those, however, who, with feelings of disinterested patriotism, look into the internal workings of the machine, are apt to detect an extension of executive influence through the innumerable offices of which that branch of the government has the disposal, that seems likely to control the deliberations of the popular branch by the hope of reward. The office of president has become of such importance, that all questions are merged in the election of that magistrate; and the great interests of the country are neglected, or considered only in reference to the manner in which they may promote or impair the prospects of a presidential candidate.

In these discussions, the wise compromises of

the framers of the Constitution have been set at naught; the people have been told, and many have believed, that different portions of the country have different interests; and that the agriculture, the commerce, and the manufactures of the Union, so far from being bound up in one inseparable chain, are hostile to each other's prosperity. *Divide et impera* has been the motto of the interested politician; the doctrine of states' rights has been preached by those most interested to maintain the ascendancy of the federal power; the yeomanry of the North have been excited against the slaveholders of the South; the planters against the manufacturers, and the farmers against the merchants. The country is now suffering under the consequences of these heretical doctrines, and is, with all the elements of unexampled prosperity, in a state of incredible distress.

The theory of the government, that the intelligence of the people, however slowly reached, must finally compel the administration and legislative bodies to the course most conducive to the general interests, seems, however, to be fully established as correct. Fifty years of stability, and most of that time of great prosperity, have elapsed, and thus our government can no longer be regarded as a mere experiment how far the people are fitted for self-government; or, if it have been an experiment, that experiment is successful.

Experience seems to have fully proved that the permanence of our institutions is in no danger from any of the causes which have in other climes embarrassed popular governments. We have no ambitious royal neighbour possessed of power sufficient to conquer and destroy our freedom, as Philip and Alexander did that of the Grecian republics. Fond as we are of military renown and grateful for martial service, the army, as a body, can never control our elections or prevent their occurrence. The military establishment, so far from being the probable instrument of a tyranny, is the most independent of executive influence of all the departments of national organization. We need, therefore, never apprehend the appearance of a Cæsar, a Cromwell, or a Napoleon. The breaking up of entails, and the division of property at every new generation, will for ever prevent the formation of an aristocracy, and the utmost sway which it can attain is that over the fashionable world of our cities, which experience has shown to be without the pale of political influence. Nay, could any one of these causes influence the general government, the sovereignty of the states furnishes a secure barrier against any actual encroachment on popular liberty.

Party spirit has, however, erected a tyranny which may, in the semblance of respect for the popular will, end in rendering that will nugatory.

Political men now no longer dare to avow their real sentiments, or are compelled to act in opposition to them. The members of a defeated party are often, to all intents and purposes, disfranchised unless they abandon the principles for which they may have conscientiously contended.

After the State Convention adjourned, the popular voice speedily confirmed its decision. The opponents of the federal Union, who had previously enjoyed the entire confidence of the people, lost much of their influence, and would have been deprived of it altogether had they not joined in the popular feeling. This was strongest in the city, and the final ratification by the required number of states was celebrated there with demonstrations of joy such as have never been surpassed. In these, the very persons who had lately prided themselves in the name of anti-federalist, and were shortly to be arrayed against the administration of the federal government upon new questions of policy, bore their full share. Many were sincere converts; and, either in the hopes of personal advantage under the new government, or influenced by more pure motives, gave to its early steps their devoted support. There were, however, others, who had been influenced in their support of the proceedings of the Convention, and in urging the ratification of the Constitution by the states, by motives of ambition or desire of emolu-

ment, who were disappointed in its action upon their interests, and stood ready to seize any opportunity which might present itself to form an opposition to its administration.

CHAPTER X.

Washington is chosen President.—Organization of the Executive Departments.—Hamilton is appointed Secretary of the Treasury.—His Report on Public Credit, in which he recommends the funding of the Debt and the laying of an Excise.—Opposition to the Funding System, which is, however, carried.—The Excise is also opposed, but carried.—Plan of a National Bank, which receives a Charter.—Constitutional Question raised in relation to it.

THE advanced age of Franklin rendered it inexpedient that he should be a candidate for the presidency, nor is it probable that he would have permitted himself to be proposed. Washington was, in consequence, the only person who would be likely to unite all suffrages. He had, however, on resigning his commission at the close of the war, announced his intention of retiring from public business, and had been with difficulty induced to act as a member of the Convention. To abandon his retirement for the labours of the office of president was even more repugnant to his wishes. Still, in the minds of all the friends of the new

Constitution, the belief was universal, that the only chance of its receiving a fair trial depended upon his acceptance of that office.

The opposition to the Constitution was so strong, and had been so violent, that the authority of any name less potent than his would have been insufficient to prevent acts which might have been fatal to the success of the experiment. His repugnance was such that it became necessary that he should be strongly urged to allow his being proposed as a candidate for the presidency; and, among others, we find Hamilton writing to him on the subject, and pressing him to undertake this important office. Washington, convinced by these arguments, no longer attempted to shun the responsibilities involved in the executive duties of the new Constitution, and his name was proposed to the electoral colleges.

It was speedily known that his election had been effected with no other want of unanimity than was sufficient to obtain a choice of vice-president. So much apathy, however, existed, and so little hope of improvement in the prosperity of the country, that a month elapsed from the day appointed for the meeting before a quorum of both houses could be formed for the purpose of counting the votes, and giving official notice to Washington of his election.

The president having assumed his duties, the

two houses applied themselves diligently to organize the executive departments. Three of these were formed, each under the direction of a head styled a secretary; namely, that of foreign affairs, that of the treasury, and that of war; the latter of which included the superintendence of naval affairs as well as of the army. Of these three heads of departments, with the attorney-general, a cabinet was formed, and Washington introduced the practice of performing no important executive act without consulting it. His method, however, was that of requiring their separate written opinions, after a careful perusal of which his own was made up and acted upon. He thus, without attempting to avoid responsibility, had the advantage of the separate deliberate reflections of four men of the highest eminence.

The law which organized the treasury department was drawn, it is said, by Hamilton. It underwent some alterations before it passed, but is, in its great principles, the offspring of his mind. It contains a provision intended to obviate the defect which has been noted as existing in the Constitution, by which the custody of the purse is intrusted to the nominee of the executive. This provision requires the secretary of the treasury to report directly to the House of Representatives. It was also intended to have given the head of the department more of a ministerial character, by al-

lowing him a seat, and a right to speak in the House of Representatives.

Hamilton, in truth, seems to have understood better the dangers to which the liberties of our country may at some future time be subjected than most other persons. He saw no chance of an attempt at changing the popular forms and institutions; he was aware that the natural bias was rather to render them more than less democratic in their external character; but he did see a danger in vesting the whole control of the public purse in the same hands which bore the sword; he wished to make the executive stronger in the exercise of its necessary prerogatives, but to deprive it of the means of corruption.

When the bills creating the departments had become laws, Washington, who had hitherto, with his accustomed reserve, avoided all committal in respect to persons, called Hamilton to preside over the treasury. The department of foreign affairs was intrusted to Jefferson, who had been a stranger to the discussions of the Convention, and had been, until a late period, considered inimical to the new Constitution. Knox, who had held the war department under the confederation, was retained in the same position, and Edmund Randolph was appointed attorney-general. With these nominations the public at large was well satisfied; but there were individuals who had as-

pired to stations in the cabinet that were disappointed. We shall have occasion to see the results of this feeling as we proceed.

Among the earliest duties which the Secretary of the Treasury was called upon to perform, was a report to Congress on public credit. This had been required of him by a resolution of the House of Representatives passed 21st September, 1789, and his report was presented on the 9th of January, 1790. The resolution expressed the opinion "that an adequate provision for the support of public credit is a matter of high importance to the honour and prosperity of the United States," and called on the secretary for a plan for redeeming it from the low ebb to which, as we have seen, it had fallen.

Setting out from principles which he considers undeniable, namely, that exigencies will occur in which nations must borrow; that, to borrow on good terms, the credit of the nation should be well established: he infers, that on the observance of these principles must depend not merely the possibility of obtaining future loans on good terms, but "the individual and aggregate prosperity of the citizens of the United States; their relief from existing embarrassments; their character as a people; and the cause of good government."

He next shows how public credit is injured by

the breach of public engagements ; the moral obligation to observe good faith with the public creditor, and its peculiar sanction in relation to the debt of the United States, which was "the price of liberty."

In continuation, he shows the advantage to be gained in funding the floating debt, by converting a dead into an active capital, and the great benefit this conversion would confer on the landed interest.

He then takes up the question whether the holder of the public securities should alone be entitled to the benefit derived from funding them, or whether regard should be had to the manner and terms on which he became possessed of them ; and, by an unanswerable argument, shows that all considerations of policy and justice were in favour of the former course.

He next proceeds to examine whether any distinction ought to be drawn between the creditors of the general government and those of the individual states, and comes to the conclusion that both were equally entitled to consideration.

It is subsequently inquired whether the arrears of the interest ought to be put on the same footing with the principal, and is decided in the affirmative.

These preliminaries settled, he gives a statement of the amount of debt due by Congress for

principal and interest, together with an estimate of that due by the separate states. The annual interest on the two is then inferred to be about four and a half millions of dollars. Six different plans for funding the debt are then presented, and each contains a provision for its extinction, by the annual payment of a greater sum than the proposed interest; while, on the other hand, it is proposed as a stipulation, that no more than this annual payment shall be directly applied to the redemption of the debt.

The secretary next enters into an estimate of the ways and means for providing for the interest and redemption of the debt proposed to be funded. During the first session of Congress a tariff had been adopted. In this the imposts on some articles had been carried to an extent as large as they could possibly bear, yet a deficiency of income was still left. A further increase would have led to smuggling. To meet this deficiency by a tax on property was contrary to the policy of Hamilton. He therefore had recourse to an excise. Retaining the existing duties on imports and tonnage, he proposes to levy a tax on wines, spirits, teas, and coffee, including an excise on spirits distilled within the United States. This part of his report refers to a draught of a law submitted with it, which was passed almost verbatim.

As a further source of revenue, he speaks of the

postoffice, whence he estimates that a million of dollars might be derived to the general use.

Convinced that the maintenance of the public credit required the appropriation of specific funds for the interest and redemption of the debt, he proposes the application of the product of the excise on spirits to the payment of the interest on the foreign debt, while the revenue of the post-office, to the extent of \$1,000,000, was to be vested in commissioners as a sinking fund.

Finally, after exhibiting the great advantages to be derived from bringing the stock, at as early a period as possible, to its par value in the market, he proposes, as a step to this desirable result, the establishment of a National Bank, for which he promises to submit a plan.

This scheme met with strong opposition in Congress. No voice, indeed, was raised against the funding of the foreign debt; but such a provision for that due to Americans, and, still more, the assumption of the debts of the states, excited much clamour. It was argued that, inasmuch as the greater part of the actual holders of claims on the government had obtained them at prices far below their nominal amount, it would be proper that the government should not admit their claims for more than they had actually paid. This ground was taken by Madison, who, after having been for several years the close intimate of Hamilton,

and his coadjutor in the measures which led to the adoption of the Constitution, now appeared as the opponent of all his propositions.

The proposal for the assumption of the state debts excited all the sectional feelings which had embarrassed the proceedings of the Convention, and caused much angry recrimination. After a lengthened debate, the policy of Hamilton prevailed; the holders of the domestic debt were admitted to the privilege of having it funded, while a gross sum of twenty-one millions was ordered to be allowed to the states for the amount of their debts.

Whatever of praise or blame may be attached to these measures, Hamilton alone is entitled to the one or liable to the other. The president kept himself aloof, nor did he call for its discussion in the cabinet until the bills had passed both houses. He rightly considered the plan as falling specifically within the ministerial duties of the Secretary of the Treasury, and its adoption or rejection as the prerogative of the representative bodies. When, however, it became his duty to sign or return the bill, he promptly gave it his official sanction, although it is believed that, of the other heads of departments, Knox alone entered fully into the views of Hamilton, while Jefferson and Randolph were opposed to the funding system. After maturely weighing the several arguments, the president decided in

favour of the plan of Hamilton, and signed the bill.

The subject of an excise was not reached by the first Congress, but was taken up by that which commenced its sittings in December, 1790. This question was debated with great warmth, and the plan of Hamilton was violently opposed. The resistance it met with in Congress was, notwithstanding, far less than that which was speedily excited among the more ignorant members of the community. By a mistaken notion in physiology, it had become an opinion almost universal, that in the climate of a great portion of the United States, ardent spirit was a necessary beverage, alone or diluted with water. Hence almost every adult in the United States was a consumer of it; and, although in most cases in great moderation, there were still multitudes who, under the popular error, had no sense of shame in indulging in alcoholic liquids to excess. The trade in this article was thus an important branch of commerce, and its manufacture one of the most extensive branches of national industry. It was thus easy for those who had been compelled to abandon their opposition to the federal Constitution to awaken a powerful feeling against the excise. The measure, in spite of all opposition within or without the halls of Congress, became a law.

By the funding of the national debt, the formation of a system of duties and excise, by which the payment of its interest regularly, and its gradual redemption were ensured, public credit was restored. The country almost instantly passed from a state of misery, despondence, and inactivity, to one of prosperity, buoyant hope, and prosperous industry. Hamilton, however, did not consider his great system of ameliorating policy complete. The debt was still, in a great degree, a dead capital; the rate of interest was still too high to permit it to assume its par value. Agriculture was the only branch of industry which had revived; commerce, although improved, was still in a languishing state; while manufactures were wanting to complete the great circle of national prosperity.

We have seen that, in the very lowest ebb of the credit of the Convention, Hamilton had looked to a bank as a sure mode of restoring it. Those less clear-sighted than himself could not perceive the connexion between such an institution and a trust in the good faith and ability of the government, and ridiculed the idea. Morris had, however, tried the experiment on a limited scale, and the result had shown the magical power of such an institution. Hamilton now brought forward the scheme of a National Bank as his final measure of finance. By forming the capital of this in a great measure of the funded debt, he proposed to

convert so much dead into active capital, rightly concluding that the deposits and circulation which confidence in an institution founded on such a security must attain, would equal the stock thus engaged in its business.

The idea of creating a National Bank was intimated to Congress in his report on public credit. The House of Representatives speedily called upon him for a plan of such an institution, which he submitted on the 13th December, 1790. The arguments in favour and against a National Bank are too familiar to require that the merits of this question should be here discussed. It is sufficient to say, that in his report every argument by which the expediency and utility of such an institution can be supported is ably and fully set forth. The subject is in truth exhausted; and while this report has served as the text of innumerable laboured and copious glosses, no new views have been elicited either by experience or study. The plan which he submitted, as imbodyed in the first Bank of the United States, was perfect; and all the changes which have been proposed, and the modifications which were introduced in the charter of the second bank, have tended to impair the efficiency of Hamilton's original plan.

The attempt made by the leaders of the anti-federalists and the disappointed expectants of office to rally an opposition on the questions of fund-

ing the debt and creating an excise, appeared likely to be a failure. The question of a bank held out a more promising foundation for principles which might serve as the landmarks of a party. The fact that no express authority had been given to the general government to create a bank was eagerly seized upon, and the constitutionality of such an institution was denied. Madison, as on the former occasions, led the opposition, and framed the arguments by which the power of Congress in the premises was disproved. With how much sincerity he entertained the opinions he thus brought forward may be inferred from the fact, that, when president, he repeatedly recommended a bank as the only cure for evils similar to those which existed at the adoption of the Constitution, and finally signed the charter of the second Bank of the United States. The ingenious casuistry employed on this occasion has the merit of bending itself to every variety of circumstances, and will enable an adroit chief magistrate to shelter his rejection of almost any questionable measure under the cloak of constitutional scruples. So nice is the web of the argument, that it did not prevent Madison himself from maintaining his perfect consistency in declaring a bank unconstitutional as member of Congress, and aiding in his legislative capacity to create one when president.

The charter of the bank, in spite of this power-

ful and ingenious opposition, passed both houses of Congress, and was submitted to the president for his signature. He now demanded the opinions of his cabinet. Jefferson and Randolph had become converts to the doctrine of a strict construction of the Constitution, if the former, in his jealousy of Hamilton, which had become the obvious spring of his actions, had not, in fact, prompted the argument of Madison. Knox, on the other hand, concurred with Hamilton; and the latter replied to the opinions of the secretary of state and attorney-general in an argument which, to the present day, is the admiration of all who read it. It was successful in removing all the patriotic scruples of Washington, and the charter received his signature. It has since been confirmed by the successive judicial opinions of Jay, of Ellsworth, and of Marshall; been sanctioned by the practice of Jefferson; and has governed the course of Madison himself.

CHAPTER XI.

Success of the Bank of the United States.—Hamilton's Report on Manufactures.—His Report on a Mint.—Dissensions in the Cabinet.—Origin of the two great Parties.—Proclamation of Neutrality.—Mission of Genet, and his offensive Acts.—Proceedings of the Government in relation to them.—Letters of Pacificus.

THE institution of the Bank of the United States speedily fulfilled the expectations of its founders. Commerce revived completely; the intercourse between the states, facilitated by an equalization of the exchanges, became more intimate; the price of the debt rose to its par value; the revenues of the government were placed beyond the reach of speculation, and disbursed in the most distant parts of the Union without expense to the government. Hamilton, however, believed that one element was yet wanting to establish the national prosperity on sure grounds. While the practice of some countries had exclusively favoured agriculture, others had directed their chief efforts to the encouragement of commerce; and others, again, had thought that manufactures

alone were entitled to national encouragement. Different European nations had adopted different systems of policy in relation to these three great sources of prosperity. Hamilton saw that the sage measures of which we have spoken in the preceding chapter had given an impulse to agriculture which could not be checked until the surplus for export should exceed the foreign demand; that commerce was in like manner in a state of progress which would be limited only by the demands of the agriculturist. These, therefore, required no direct aid from the government. He also saw that the surplus agricultural products might be deprived of a market by the acts of foreign powers; that the trade of the merchant would thus be deprived of its customers; and that the prosperity of both might, in consequence, be impaired by circumstances over which the government could have no control. The agriculturist, however, was, in most parts of the United States, so far from a market, that he could derive none of the profit arising from the supply of cities or large communities with perishable and bulky articles. The products of the dairy, the growth of the kitchen and fruit garden, and the innumerable small crops, were thus in a measure valueless, except in the immediate vicinity of the existing large towns. But he also saw that a community wholly agricultural must for ever be the tributary, or, in effect, the colony of

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that by which it is supplied with manufactured articles, and read in history the slow but sure decay in fertility which follows the export of all the articles which the agricultural labourer cannot himself consume.

He inferred that independence on foreign countries, and the perpetuation of the fertility and value even of farming land, were only to be attained by the creation of manufactures. The encouragement of these, he concluded, was an important and indispensable feature of the policy adapted to give the United States their proper standing in the world of civilization.

Being again called upon by Congress for information, he presented a voluminous and convincing report, in which he recommends the encouragement of manufactures by every means within the legitimate authority of the government. In this report he assigns to agriculture, commerce, and manufactures their true relative value, in direct contradiction to the schemes of political economy, which had in turn elevated each of them above or decried it below its true co-ordinate rank in a national system. This report produced no immediate consequences, but may be advantageously consulted even at the present time. It points out the true system on which national greatness may be founded, by a just balance of the three great interests; it is consistent with that instinctive

sense which induces us to prefer the productions of our native country to those of foreign climes ; and it has been successfully acted upon in all countries which have enjoyed a high degree of wealth and prosperity.

Hamilton was, on all the subjects of finance and national policy, emphatically a practical man. His early associations with mercantile business had shown him the true nature of credit, and the prodigious effect of good faith in maintaining it ; while he was aware of its sensitiveness, and the ease by which carelessness or want of punctuality could destroy it. He founded his plans of finance, of a bank, and for the encouragement of manufactures, not upon general and vague theories, but by means of sound induction from the experience of other nations, on a careful examination of the legislative steps by which they had attained prosperity or destroyed their natural advantages. Political economy, to be applicable to any useful purpose, must be pursued as an inductive science ; it may otherwise set out from undeniable principles—may proceed by steps of synthetic reasoning, in which no flaw can be detected, and yet the results of the argument may be in absolute contradiction to facts. We may by this process explain the reasons of a particular course of events after they have occurred, but it is impossible to predict them. It is in vain to hope for greater certainty

in political than can be reached in physical science; and in the latter it is well known that the most accurate mathematical reasoning, founded on principles absolutely true, may yet lead to erroneous results, because all the circumstances cannot be taken into account.

The last of Hamilton's great official reports was that on the establishment of a mint. This was adopted in most of its details, and its principles governed the practice of that institution for upward of forty years.

On the subjects of credit, of finance, of an excise, and of a National Bank, the cabinet of Washington had been divided. Jefferson had appeared as the decided opponent of all the great measures proposed by Hamilton. A gradual estrangement, and, finally, a cessation of friendly intercourse between them, had thus arisen. Washington had applied himself assiduously to heal the breach, but unsuccessfully. The president reposed perfect reliance on the integrity and honesty of purpose of both; and although he had been, in all the instances we have cited, convinced by the sound and irrefutable arguments of Hamilton, he appears to have determined to commit himself in no shape with a party which might be formed to sustain the opinions of either. The end of his first term of office was about to expire, and he longed to retire to private life. This wish was

combated by the members of his cabinet. Hamilton, Jefferson, and Randolph each addressed him letters expressive of their opinions on this subject; and, however various were their views and the reasons they alleged, concurred in urging him to serve for a second term. His consent to be considered as a candidate was reluctantly given, and he was elected and again inaugurated.

Up to this time little distinction of party existed, save that founded on the old difference between the friends and the opponents of the federal Constitution. The latter, beaten and discomfited, dropped their distinctive name and waited the course of events. The personal popularity of Washington, and the reverence in which he was held by the great body of the people, would have rendered any direct attempt to oppose his administration fatal to those who made it.

The debates on the funded system and excise, and more particularly the question of the constitutionality of a National Bank, led to a distinction among political men which speedily caused the formation of two great factions, whose contests continued for more than twenty years. Hamilton became the leader of the federal party, which adopted his principles. It was originally composed of the friends of the new Constitution, but received great and powerful accessions from the mercantile interest, which found in his

measures the source of a prosperity almost unexampled, and hardly expected by the most sanguine. The plan of funding the debt had been followed by the conversion of dead and useless certificates into a readily saleable article, which, from its rapid rise, left a profit in the hands of each successive holder; the providing of a sufficient revenue to pay the interest, and finally to discharge the debt, caused a still greater rise in the funds; and, lastly, the creation of the bank, which converted a portion of the funded debt into an active capital accessible to the enterprising and intelligent, stimulated every branch of industry, and aroused the nation from a state of collapse to one of active and successful exertion.

In the same party were ranked the great body of the officers of the revolutionary army—the men who had persevered to the end in the service of their country, and had, from motives of patriotism, undergone privations whence others less firm had shrunk. These saw in the success of the new government the fruition of the objects for which they had fought, and rejoiced that their toil and blood had not been expended in vain. Even the labouring population of the great cities had not yet been taught to look on their mercantile employers with distrust and jealousy, or to consider that the capitalist and his workmen had different interests; and thus, for a time, the strong seats of the Fed-

eral party were in New-York, Philadelphia, and Boston.

The accession of the mercantile interest alienated from this party the strong and powerful body of Southern planters, who entertained a jealousy of their factors, which they concealed under the mask of contempt. The whole of the opponents of the Constitution united under the banner of Jefferson and Madison, from those who, like Randolph, refused to sign it because it did not meet the demands of the great states, to those who were dissatisfied because the small states had lost their equality of representation in Congress. Finally, many, who, with Madison and R. L. Livingston at their head, had been disappointed in their hopes of personal consequence, swelled the ranks of the anti-federal party.

Washington had resolved that he would not govern as the president of a faction, and knew his power of making the discordant materials of his cabinet work together for the general good. The new party, therefore, did not assume the form of an opposition to him, but charged the measures obnoxious to them upon the secretary of the treasury. Professing personal attachment to the president and confidence in his virtues, they notwithstanding arrayed themselves against measures to which he had given his hearty assent, on the plea that he had been deceived. The funded

system, the excise, and the bank, were equally obnoxious to them. It was urged that the debt had been unwarrantably increased in amount by the assumption of the state debts; that the provision by which the debt would be redeemed within a stated time, and not before, was impolitic and injudicious, because it gave the debt a currency in foreign countries, and would lead, as was imagined, to an export of specie to pay the interest; that the profit of the holders of the stock in the bank was taken out of the pockets of the people; that all capital employed in banking operations was barren and unproductive; and that the Legislature was corrupted by this capital.

Such were the allegations of Jefferson in a letter to Washington, in which he, notwithstanding, urges him to permit himself to be re-elected. They exhibit the grounds which he considered as tenable, and form the foundation of what he, even at this early period, calls the Republican doctrine.

However well suited to popular feelings these propositions may appear, they were but coldly received; with the people the Federalists still exerted the greatest influence, and in Congress their party was triumphant.

The entrance of Washington upon his second term of office as president was followed by the intelligence that a war had broken out between England and France. This was the result of the

French Revolution. The efforts of the people of that country to obtain a free government had excited the sympathy of all the citizens of the United States, and it had been felt in no moderate degree by Hamilton, as well as by Washington himself. The revolution was, however, speedily sullied by sanguinary excesses, which awakened the jealous fears of the governments of Europe. These, in endeavouring to crush the revolution in its cradle, had excited a hostile spirit among the republicans; and the early successes of their arms gave birth to the hopes of conquest, while they sought by all possible means to injure and ruin their enemies. The treaties which existed between France and the United States bound the latter to certain obligations, which, if fulfilled according to the construction put upon them by the former, made them allies in the war. To a certain extent the claim was admitted, and money was freely advanced to aid in the attempt to quiet the troubles of St. Domingo. The new government of France, however, seemed to have determined to compel the United States to become a party in the war, or to make such use of the ports and people of America as would be more injurious to England than actual hostility. Active preparations were soon known to be making to fit out privateers under the French flag in American ports, for the purpose of preying on British commerce.

In this state of things, the president submitted to his cabinet the questions: whether a proclamation of neutrality ought not to be issued? whether a minister from the French republic should be received? whether his reception should be absolute or qualified? and whether the guarantee in the treaty of alliance was binding under existing circumstances? The cabinet decided unanimously that a proclamation, forbidding the citizens of the United States to take part with either belligerent, ought to be published, and that the minister from the French republic ought to be received. On the other points a diversity of opinion existed; Jefferson and Randolph saw no reason for expressing any qualification in the reception of the expected ambassador, while Hamilton and Knox were opposed to any direct recognition of the existing government of France, which they did not think likely to be permanent, for fear of creating difficulties with other powers. The two latter concurred in opinion, that the guarantees in the treaty had reference only to a defensive war. while the former did not consider it necessary that an opinion should be expressed on this head.

Washington, on this occasion, was governed by the opinions of Jefferson and Randolph. The proclamation of neutrality was promulgated; the ambassador was received on the same terms as the representative of the king had been; and the

provisions of the treaty were left to take the course of events. Hamilton's doubts of the stability of the revolutionary government were justified by the course which things took in France, where faction after faction succeeded to power; but, on the other hand, the forms of a republic were maintained until Napoleon grasped the reins of empire. We may also express the belief, that a declaration that the war then waging by France was offensive, and, in consequence, not provided for by the treaty, would have been a more open and manly course than that which was pursued.

Hardly had the proclamation of neutrality been issued, than the expected ambassador from France landed at Charleston, S. C. This minister was the famous Genet. Immediately after his arrival, he issued commissions to privateers, which were fitted out and speedily returned with prizes. His journey from Charleston to Philadelphia was almost a triumph, and he received everywhere such marks of attention as impressed him with the idea that the great body of the people was ready to make common cause with France. On consultation with his cabinet, Washington issued a declaration that the fitting out of privateers was a violation of neutrality which the government was bound to prevent. A communication was also made to the French minister, informing him that it was expected that he would cause restitution

to be made of all prizes brought into American ports by vessels fitted out within them, otherwise the United States would consider themselves bound to indemnify the owners, and call on France to reimburse the indemnity.

Active steps were then taken to prevent the sailing of privateers; and in at least one instance, a prize was taken possession of and restored to her crew.

Genet was deeply dissatisfied with these measures, and threatened to appeal from the president to the people. Roused by this insult, Washington, by the advice of his cabinet, demanded from the French government the recall of Genet.

On all these points the cabinet was unanimous; and although it is apparent that Hamilton was the main supporter of the president in these measures, Jefferson and Randolph concurred, and signed the opinions. The sincerity of the last two has been questioned; it is at all events certain, that the opinions of these gentlemen did not continue consistent with the declarations issued by the government. Randolph was ere long charged with entertaining relations with the French minister incompatible with his position in the cabinet. To this charge he made no defence, but forthwith resigned his office. Jefferson was speedily intimately leagued with those who had espoused the cause of France.

Genet, with a view of realizing his threat of an appeal to the people, proceeded to organize Democratic societies. These were modelled on the Jacobin clubs of Paris, and were by far the most efficient engines for party discipline that had been yet seen. These societies not only borrowed their organization from France, but adopted the terms of reproach which had been so efficient in the reign of terror. All who opposed their plans were stigmatized as aristocrats; and it is more than probable that the federal party was made odious by its being wilfully confounded with the obnoxious French faction which bore the same name.

In this crisis Hamilton was true to his country and his illustrious chief. The proclamation of neutrality, and the acts which grew out of it, were ably defended by him in a series of papers bearing the signature of *Pacificus*. A strong revulsion was effected by them in popular feeling, and the administration finally received the support of a decided majority of the nation. At first, indeed, it could reckon on no more than a minority of the House of Representatives, while the Senate was equally divided. This state of parties was exhibited when the treaty made by Jay with Great Britain was promulgated. The proceedings in reference to his mission, and the treaty which he formed, are foreign to our present subject.

CHAPTER XII.

Armed resistance to the Excise Law.—Hamilton resigns the Office of Secretary of the Treasury, and resumes the practice of Law.—His brilliant Success.—His Disinterestedness as a Politician.—Continued Aggressions of France, and her Refusal to grant Redress.—Excitement of Popular Feeling.—The Provisional Army is voted by Congress.—Hamilton is named Inspector-general.—His Services in that Capacity.

THE excise was not only warmly opposed in Congress, but the operation of it was met by a determined spirit of resistance. This was at first manifested in an evasion of the law; next by threats and insults to the revenue officers; finally, when indictments were found against the delinquents, the serving of the process was resisted by an armed force. This last act of outrage was ascribed by Washington, and with every appearance of probability, to the influence of the Democratic societies. To put down this insurrection, the militia of the states of Virginia, Maryland, and New-Jersey was called out, after a proclamation had been issued requiring the insurgents to disperse.

This force was accompanied by the president himself nearly to the scene of action, and Hamilton, who had been the companion of his journey, proceeded with the troops as far as Pittsburg. He may, in fact, be considered as the actual leader of the patriotic body by whose bloodless services the only direct resistance that has ever been offered to the laws of the United States was put down.

This occasion afforded an experiment by which the stability and energy of the federal government could be tested, and the result was satisfactory.

Hamilton had for some time been anxious to retire from the cares of office to private life. He now saw that he could do so without detriment to the public service. He therefore tendered his resignation to the president, which, after some delay, was accepted. His continuance in office was desired until he should close his previous labours by the plan of a sinking fund. This was recommended by Washington in his annual message, and the means for establishing it were planned by Hamilton. His report on this subject was his last act as a member of the cabinet.

Hamilton, after resigning the office of secretary of the treasury, returned to New-York and recommenced the practice of the law. In those days of official purity, it was not yet imagined that the possession of a public trust could ever be made

a source of fortune, either directly or indirectly. The salaries were fixed at the lowest limit believed to be compatible with the decent support of the incumbent; and an attempt to save what was granted for public purposes would have been visited by contempt. Speculations growing out of the opportunity for information possessed by the departments would have been reckoned criminal, if not within the strict letter of the laws, at least in the eye of the community. Hamilton, however, never seems to have imagined the possibility of acquiring wealth in the latter way. Had this been his object, he had opportunities such as no other public man has ever possessed. The debt of the government rose under his administration from a value almost nominal to more than par, while the rise on the subscription price of the stock of the bank was such as to create many large fortunes. His opponents were so sensible of the advantages of his position, that they saw that nothing but virtue of transcendant character could preserve him from the temptations to which he was exposed; and judging of him from the scale of ordinary men, boldly, and upon very trifling grounds, charged him with collusion in stock speculations. On this occasion Hamilton valued his character as a public servant beyond his domestic peace; and, rather than leave any imputation on his official purity, exposed frailties which he was not suspected

of. The temporary aberration of passion which was thus laid open may lower the opinion which we might otherwise entertain of the absolute spotlessness of his moral character, but his avowal serves to enhance our estimate of his delicate sense of official purity.

Hamilton, therefore, retired from his station as secretary of the treasury, after nearly twenty years of public service, with less of wealth than he had entered it; and the necessity for providing a support for his family was his strongest reason for resigning. His hopes of success at the bar were fully realized. He at once placed himself first among the many distinguished barristers which the courts of New-York then counted, and was speedily in the receipt of the largest income which a professional man has ever acquired among us. In this capacity he has left a reputation for depth of knowledge, soundness of argument, brilliancy of eloquence, and splendour of illustration, which is as yet unrivalled. It would be impossible, indeed, to convey in words any idea of his grace of manner and elegance of diction. In this he shares the fate of all orators; but, while others have taken care to record their more brilliant efforts, few of his speeches have been preserved.

His reputation as an orator was no doubt due, not only to his physical advantages and the vast range of his intellect, but to the earnestness with

which he entered into his subject. Each speech was therefore adapted to the circumstances under which it was delivered, and derived its greatest charm from its suitableness to the occasion. The direct object having been obtained, it never seems to have occurred to him that posterity could take an interest in the evanescent topic, and he took no precautions for the preservation of specimens of his eloquence.

While thus engaged in the industrious practice of his profession, he calmly permitted the most tempting objects of ambition to pass him. The administration of Washington was drawing to a close, and he had determined not to serve a third time. The two great parties had been fully developed, and Jefferson had been placed at the head of that which, after passing through the phases of Anti-federal and Democratic, had assumed the style of Republican. The Federal party had, in point of fact, been formed to support principles, of which Hamilton was the author or the most efficient supporter. Its practice consisted in the funding of the debt, with the creation of a sufficient revenue to meet the interest and redeem it; in maintaining the Constitutional right of the government to charter a bank; in observing the strictest neutrality between the belligerent powers of Europe, and being at the same time prepared to resist or retaliate the aggressions of either.

It is easy to see that, had Hamilton been actuated by personal ambition, he might have made himself the candidate of this powerful and influential party. His writings, acts, and views of the Constitution were adopted by it; and, although willing to serve in a private capacity, he was its acknowledged leader, and held in its estimation a rank second to Washington alone. He, however, took no steps to avail himself of his standing with this party, and rather avoided than courted popular applause.

At this juncture he received a new proof of the confidence of Washington in his honesty and ability. That great man, on quitting office, had determined to leave behind him as a legacy the declaration of his principles of action, to serve as an example to his successors. With this he proposed to combine the advice he conceived most likely to maintain the stability and usefulness of the federal government. Here was an extra-official act, in which his cabinet had no concern; and yet, with his characteristic prudence, he was unwilling to trust to his own unassisted exertions for the preparation of so important a paper. He chose as his advisers on this occasion Jay and Hamilton; and while the great features of this almost superhuman production are unquestionably his own, he adopted their suggestions almost implicitly. So decided is the evidence of Hamilton's style in this

document, that those have not been wanting who have ascribed it solely to him, forgetting the air of majestic grandeur which breathes in every line, and which no other mind, however familiar with the inmost thoughts of Washington, could have assumed.

Examples of the perfect union of the mind of one great man with the style of another are not wanting in other instances. Pictures are yet to be seen which bear the autograph of Rubens, while the practised connoisseur can trace in them the evident marks of the hand of his pupil Van Dyck. The pictures, in grandeur of design, are worthy of the former; in delicacy of taste and feeling of beauty, of the latter; while the union presents a whole superior to the separate productions of either. So of the farewell address: its conception could only have arisen in the mind of Washington himself, yet it would have been less perfect as a composition had it not passed through the hands of Hamilton; and even their united efforts might not have exhibited the high and delicate finish afforded by the classical pen of Jay.

The administration of Adams, which succeeded that of Washington, professed to follow in the path the latter had pointed out. The heads of departments who had succeeded Hamilton and his colleagues were retained in office, and all the great features of national policy remained for a

time unaltered. Adams, however, speedily became unpopular. The fact that he had been the apparent opponent of Washington in the election for president, which was necessary, in the original form of the Constitution, to make him vice-president; and the large majority by which he was chosen as the successor, seem to have given him an overweening estimate of his personal importance. Beginning his political career by professions of implicit obedience to the popular will, he underwent, when he obtained power, the transformation almost certain to demagogues, from supple subserviency to arbitrary exertion of authority. Familiar with the etiquette of the courts of Europe, he felt inclined to mimic the state and seclusion of monarchs. The reserve and distance of manner, natural and dignified in Washington, might awe, but they never excited resentment. Manners of the same description, ingrafted unnaturally on the less imposing person of Adams, excited derision in some, and roused the anger of others. The sterling honesty of his purposes was no compensation for the faults of his manner. Advantage was taken by the opposition of the defects of his character, and the popularity of his administration speedily declined.

The aggressions of Great Britain on our commerce had been in a great measure checked by the treaty of Jay. A feeling of cordiality had

arisen between the two governments, which their mutual interest in commerce might have extended throughout both countries. England was the best market for many of the products of the United States; the latter the largest customer for the manufactures of Great Britain. The folly of the administration of England, and the arrogance of her naval commanders, alone prevented a good and cordial understanding between the two nations.

France, on the other hand, not only continued her pillage of the commerce of the United States, but exhibited resentment in other ways at the steady adherence of the latter to a strict neutrality. The list of wrongs and injuries had swelled to a fearful amount. In this state of the case, it was resolved by Adams to follow, in relation to France, the method adopted by Washington towards England in the mission of Jay. Commissioners were therefore despatched to Paris, bearing the ultimatum, as it purported to be, of the United States. These were received almost with insult; and, as a preliminary to any negotiation, money was demanded. To this the memorable answer was given, "Millions for defence: not a cent for tribute!"

The Directory was probably incited to this arrogant course by the belief that a large and powerful party in the United States would not sustain

the government in a war with France. The opposition to Jay's treaty had assumed the form of a French party, while the old wounds of the Revolutionary war were yet unhealed, and festered with resentment against Great Britain. That there were party leaders who, in the ardour of their political strife, had lost sight of national and patriotic feelings, and were, from opposite views, partisans of either belligerent, cannot be doubted; but the body of the people was sound in its attachment to its own soil and institutions.

No sooner had the treatment of the envoys become known, than a spontaneous burst of popular feeling arose. Congress passed a law authorizing the enlistment of an army of ten thousand men, and made provision for the increase of the navy. The cruisers were authorized to capture and bring into port all French armed vessels found hovering on the coasts. The capture of one French frigate, and the defeat of another, gave an earnest of that glory which has since encompassed the navy, and exalted it in popular opinion. The flower of the youth of the country either sought commissions in the army, or enrolled themselves in volunteer corps, without reference to the former distinctions of party.

All eyes were now directed to Washington as the only person worthy of commanding the new army; and Hamilton, in anticipation of the unfa-

vourable result of the negotiations with France, had written to tell him that it was the general opinion that he must again sacrifice his private interests to the public good. That his services would be demanded was also intimated to him by the president; but the latter, with singular bad taste, had nominated him to the Senate as commander-in-chief before the reply was received. Washington accepted the appointment without hesitation, however ungracious the manner, but stipulated that he should have the selection of the general officers. The law had provided for two major-generals, and an inspector-general of that same rank. For the two former offices Washington named Charles Cotesworth Pinckney and General Knox; for the latter he proposed Hamilton; but he placed him first on the list, with the intention of giving him seniority of rank, and of making him his substitute unless the army should actually take the field, as well as his eventual successor.

Washington subsequently explained why he thus preferred Hamilton to be the first under him. The reasons were, his general ability and high military talent, which placed him in advance of any revolutionary officer whose age would permit him to serve; his standing as a statesman and politician, which was second to none; and, finally, that the country had no right to ask him to quit a lucrative profession for an office whose pay would

be swallowed up in the necessary expenditures, without an equivalent at least in rank and honour.

The president appeared at first to acquiesce, and named the three officers to the Senate on the same day, and in the order set down by Washington. A question of relative rank was speedily raised, and the president gave it as his opinion, that, bearing commissions of even date for identical rank, their relative standing was to be governed by their ancient precedence in the revolutionary army. By this decision the order proposed by Washington would have been inverted; Hamilton being last, and Knox first in seniority.

Hamilton was not left the option of accepting or declining to serve under this decision. Washington himself, without being requested, or any complaint from Hamilton being heard, interfered and insisted that his original intention should be complied with. To this the president consented, but with obvious reluctance, while Knox refused to accept the commission tendered to him unless he should take precedence both of Hamilton and Pinckney. Pinckney exhibited a more generous spirit. He at once acquiesced in the superior claims of Hamilton, and said he would have also offered to waive his priority to Knox and to serve under him, had he not been made aware, on his return from France, that Knox had positively de-

manded to be considered as the senior major-general.

The administration at first appeared to be in earnest in the formation of the army. Washington was desired to consider himself in actual service; and a board, composed of himself, Pinckney, and Hamilton, was convened at Trenton, for the purpose of forming a plan of organization, and selecting officers from the numerous applicants. The plan for the organization of the army was due to Hamilton, and showed how closely he had watched the improvements in military tactics which had been developed during the war of the French Revolution. It is not to be considered as one which would be received at the present day as the best, but was so far consistent with the progress of military knowledge that it was adopted almost implicitly, after a lapse of fourteen years, in the organization of the army raised to act in the war against Great Britain.

The board completed a list of officers, which was communicated to the president; and the preliminary steps having been thus taken, it was to have been expected that the enlistment of soldiers would be permitted to proceed without delay. But the president appeared on a sudden to grow cool in the cause. He must have easily seen that the greater part of his cabinet entertained a higher respect for the opinions of the

commander-in-chief than for his own. Hence appears to have arisen a jealousy of power, while Hamilton appeared to be the favourite of the very party to which he owed his own elevation to office. Instead of accepting this discovery as a proof of Hamilton's forbearance and moderation towards him, he seems to have looked upon him as a dangerous rival. Retiring from the seat of government, he, in a letter to the secretary of state, charged that the advancement of Hamilton to the high military rank which had been accorded him was the fruit of an intrigue.

In the mean time, Hamilton was assiduously engaged in the formation of the provisional army, of which the whole labour of command devolved on him, by the conditions on which Washington had accepted his commission. The delays which arose from inefficiency in the war department, and the growing coolness of the president, made this an ungrateful task.

It was, however, to all appearance a necessary one. The naval power of France had not yet received its first great check from Nelson at Aboukir, and, united to the fleets of Spain and Holland, might, in all human probability, be again supreme even in the Narrow Seas. St. Domingo still constituted an integral part of the one and indivisible republic, and in it 40,000 black troops, commanded by officers of experience, stood ready

to invade and excite a servile war in the Southern states. Serious and well-grounded apprehensions were entertained, that the aggressions of France were not so much directed by the individual cupidity of her privateersmen, as by the studied determination to extend her disorganizing principles to the Continent.

Engrossed in these warlike cares, and purposely excluded from the civil councils of the administration, Hamilton was not responsible for the errors of judgment which deprived Adams of the confidence of the federal party, and undermined its well-founded strength.

CHAPTER XIII.

Causes of the decline of the Federal Party.— Origin of the enmity of Burr against Hamilton. — Settlement of the Differences with France.—The Provisional Army is disbanded, and Hamilton resumes the Profession of Law.—He loses his eldest Son in a Duel.— Burr appears as a candidate for the office of Governor, and is prevented by Hamilton from receiving the support of the Federal Party.

IN spite of the strong popular feeling excited by the aggressions of France and the insolence of her government, a formidable party remained, which openly attempted to palliate her conduct, and covertly desired a French alliance. This party took measures, through a sure agent, to communicate to influential persons in France, that the belief in the existence of such a feeling in the people of the United States as would forbid a war was unfounded; that all hope of an alliance between the two countries would be at an end unless there were a total change of measures.

In the mean time, the administration, with a vacillating policy, decided on the appointment of

a new commission to proceed to France, to renew a negotiation which seemed already to have failed. It appears that it was not the intention of the cabinet that this commission should depart until some assurance were given that it would be favourably received. The president, as we have seen, had manifested a jealousy of the paramount influence of Washington, and appears to have secretly feared Hamilton as a rival. At all events, he seems to have ceased to take the advice of those best qualified to give it, and even omitted the usual ceremony of consulting his cabinet. The commissioners for treating with France were suddenly and unexpectedly ordered by him to proceed on their mission. This important step was taken without the knowledge of any of the heads of departments except the secretary of the navy, through whom orders for a frigate to convey them were transmitted.

This measure, by sanctioning the opinion that the danger was not pressing, nor the insults of France such as could not be submitted to, put an instant period to popular enthusiasm. Those who had failed in obtaining commissions in the army were not more dissatisfied than those who had received appointments, and both were in a fit state of mind to be acted upon by those wishing to convert them into opponents to the administration. Other active young men who had en-

rolled themselves in volunteer corps, laid aside their arms with anger and disappointment. On these classes Burr commenced a system of seductive wiles well calculated to entrap the unwary. Many of those who had been most anxious for a war with France, and some who had received the black cockade from the hands of Mrs. Adams herself, became the personal adherents of Burr, and finally gave their votes to the Republican party. The history of the corruption which Catiline exercised on the Roman youth was renewed in the United States.

Burr directed his wonderful powers of address to another quarter, and, exciting the jealousy of the poorer classes, effected a revolution in the politics of the City of New-York, which had hitherto been a stronghold of the Federal party.

His exertions to bring this about were fostered by the imprudence of the leading Federalists. The continual victories which had been gained by their party from the time the Convention which framed the Constitution assembled, caused them to forget the absolute dependance of our politicians on popular favour. They held themselves aloof from the mass of the people, and thus gave force to the charge of aristocratic feeling which was urged against them. This charge was reiterated until it was believed by many, and

alienated the yeomanry of the country from the administration.

The warlike preparations required more money than the revenue from imports was capable of furnishing. Hence resort was had to direct taxes; and these, which would have been cheerfully borne had the public good required their imposition in actual war, were a source of general discontent now that no such state of things appeared probable. Among these taxes was that of stamps, which was adroitly coupled with the similar measure that, when enacted by the British Parliament, had operated as one of the prominent causes of the revolutionary struggle.

Finally, two laws were passed repugnant to the feelings of the people; the one imposing penalties on political writers, and creating the crime of sedition; the other placing the personal liberty of emigrants at the disposal of the executive. By these acts many of those who had swelled the Federal majorities became alienated, and, if they did not join their strength to the Republican party, withdrew their support from the administration.

We might have ranked among the prominent causes of the decline of the strength of the Federal party the death of Washington himself. We have seen that he had with such prudence held the balance between the members of his cabinet, that, while he in general adopted the views of

Hamilton, he gave Jefferson no just cause of offence. The opposition during his administration did not become a personal one, but was directed against his advisers. It, in fact, was almost impossible for party malevolence to impeach his motives, and the arguments of the opposition did little to destroy the general belief in his wisdom. More than all, he was regarded by all classes with strong feelings of personal attachment, and with the most profound admiration. The course of the leaders of the Republican party, by which his name was kept out of view, was therefore as much dictated by policy as by principle. Some of the underlings of a factious press, however, did not hesitate to attack him, but the aggression reacted upon the party they supported. He had by no public act, save the acceptance of the command of the army, given his support to the administration of Adams; but the time seems to have been at hand when he would have felt it his duty to his country to declare himself openly against the Democratic party; while his dissatisfaction with the policy of Adams was such, that it appears possible that he might have been induced to stand again as a candidate for the presidency. He was still in the full vigour of his faculties, and little impaired in personal activity; and his convictions of the danger to which the country was exposed from the prevalence of the principles of the French Revo-

lutionists were such, that it is not improbable that he might again have left his beloved retirement, could he have been satisfied that by so doing he would have again become the ruler of a nation, not the head of a party.

The consummate prudence and political tact of Jefferson prevented the forebodings of Washington from being realized. The funded debt was not meddled with; the National Bank was not only left undisturbed, but continued as the fiscal agent of the government; an alliance with France was cautiously shunned, even after the insults of Great Britain and the violation of our territory afforded good and popular grounds of war; the provisional army had, as we have seen, been disbanded before the close of the administration of Adams; but an establishment of the full extent of that which was on foot at the close of Washington's second term of office was maintained. Jefferson even studiously avoided the exercise of his constitutional powers of removal from office for the mere purpose of rewarding his political adherents. With the exception of a reduction of the naval establishment, and the abolition of a useless branch of the judiciary, it might have appeared as if nothing had occurred but a change in the person of the chief magistrate.

Such was the number of seceders from the Federal party after the death of Washington, that

their opponents resolved to adopt the bold policy of running two candidates in order to secure the election of a vice-president, and thus, although a choice by the electoral colleges was not effected, the two candidates of the Democratic party were brought before the House of Representatives with claims apparently equal. In the vote of this body by states, it soon appeared that the Federal members had it in their power to determine which of the two, Jefferson or Burr, should be president. Many violent Federal partisans were inclined to throw a brand of discord into the Republican party, by conferring the dignity on Burr; and he is accused of intriguing with them for the purpose. The charge has recently been retorted on Jefferson. It seems probable that Hamilton, whom the death of Washington had placed in the first rank of the Federal party, interfered to prevent the votes of his friends being cast for Burr. For Jefferson he had no affection, nor did he believe in the honesty of his views; but he knew that he would at least be governed by the prescribed forms of legislation, and that the alterations which his advent might cause in the policy of the government would be in conformity with the letter of the Constitution, and directed by the sanctions of legal enactment.

Burr, in consequence, appears to have ascribed the disappointment he felt, but did not venture

openly to avow, to Hamilton. He had, at the beginning of the Revolution, been excluded from the military family of Washington on account of his open profligacy, and he had seen Hamilton occupying the station to which he had aspired. Professional rivalry had existed between them at the New-York bar, and while, in point of mere talent, they ranked as equals, Burr saw that the universally admitted purity of Hamilton's character gave him an ascendancy against which it was vain to strive. All these causes united excited in the breast of Burr a vindictive spirit, the more furious in consequence of the necessity of repressing it.

The commissioners who were sent to France found there a new state of things. Bonaparte had returned from Egypt, and had effected a revolution in the government. Personal interests no longer interfered, and money was not, as before, demanded. The American commissioners appeared rather as suppliants for peace than as claimants for satisfaction. The terms which they accepted were therefore far from favourable. No security was obtained against future aggressions, no indemnity for former outrages. A release was, however, procured from the implied obligations of the treaty of alliance, by which the possessions of the French in the West Indies were guarantied. Had the obligation to this condition been insuperable, the relinquishment of it would have been cheaply

purchased by giving up the claim for spoliation; but this would have only been justified by the American government assuming the indemnity of its citizens. This point was left vague in the treaty, and thus the heavy losses incurred by the mercantile community from the cruisers and privateers of France have never yet been compensated. To complete the measure of humiliation, the prizes taken by the American navy were restored, the proud trophies of victory relinquished.

It is not surprising, then, that within a few years Napoleon should have treated the United States as a vassal nation, bound to aid him in his schemes of ambition; and that England, seeing the sacrifices, both of interest and honour, which were made to France for the sake of peace, should have presumed to renew the insults which the treaty of Jay had for a time interrupted.

The treaty with France was received by the Republican party as a triumph. They forgot their country in the pride of victory over their political opponents, and the predilection for a French alliance became a strong and settled principle of action. On the other hand, the mercantile interest, powerful from its wealth, intelligence, and activity, contrasting the readiness with which England had accorded indemnity in the treaty of Jay with the refusal of all compensation by France, became the partisans of the former country; and thus two

antagonist principles were brought into action, by which it was attempted to regulate the policy of the United States, not on broad feelings of national honour, but in reference to the hostilities and interests of the two great European rivals.

The settlement with France rendered the provisional army unnecessary, and it was, in consequence, disbanded. Hamilton was thus released from his military duties, and returned to his professional pursuits. In this he was again successful, and speedily resumed his high standing at the bar and the receipt of a large income.

The violence of party politics was far from being abated by the election of Jefferson, and Hamilton was looked to from all quarters as the leader of the opposition. He gave to its cause the aid of his powerful pen, and restored the unity of the Federal party, which had been impaired by the impolitic acts of Adams. The administration party retorted by attacks upon his political character, and the principles of government which they accused him and his party of maintaining.

The excitement was such that the younger members of either party could not be restrained to the weapons of argument, but sought each other's blood. The eldest son of Hamilton, who had just reached man's estate, was one of the first victims of this spirit. Excited by the attacks which were continually uttered against the principles of

his father, he singled out and insulted the author of a public address, in which the language of the party, ascribing a desire of monarchical government and the establishment of an aristocracy to the Federalists, had been adopted with the rashness of youth and the ardour of conviction. A hostile meeting at Hoboken was the consequence, in which Philip Hamilton fell. The survivor of the duel, who appears to have been unwillingly forced by his political friends into a course which his conscience reprobated, was even more to be pitied than his victim ; for, in spite of the support of his partisans, and the applause they lavished on his courage, he sunk to the grave before the lapse of many months, a prey to feelings of remorse. It is unnecessary to say how severe was this affliction to one of Hamilton's sensibilities. The loss of a child is in all cases one of the severest trials to which our race is subjected, and the suffering was in this case aggravated by the cause and the manner of the infliction.

Burr, in the mean time, did not cease from his intrigues. Drawing a body of young men from the Democratic party, with many of those who had been disgusted with the vacillating policy of Adams, he led a devoted band, remarkable for its talent and activity. By the aid of these he formed a division in the Republican ranks, and obtained a nomination for the office of governor of the

state. For his success in this election his hopes were mainly founded upon the support of the Federalists, who, he believed, would support him merely for the purpose of overwhelming their political opponents. Many Federalists fell into the snare, and there was at one time a probability that they would unite as a party in his support, and thus ensure his success.

Hamilton was decidedly opposed to the support of Burr by his political friends, and endeavoured to prevent it by all the means in his power. To accomplish this object, he did not hesitate to represent that ambitious man as dangerous, and unfit to be trusted with power. He believed him to be governed in politics by no other motives than those of personal aggrandizement, and in his private life to be wanting in all perception of either religious or moral obligation. The universal assent of the American people has proved the accuracy of Hamilton's estimate of the character of Burr; and the publication of his papers, although sifted by friendly hands, gives undoubted evidence that the judgment of the community was correct.

At this time, however, Burr stood on a position of lofty eminence. He filled the second office in dignity within the gift of the people; to all appearance, he had not yet lost the confidence of a victorious party; and he was surrounded by a phalanx of talent and devoted friends, such as no

other aspirant for popular honours has ever assembled.

In his opposition to Burr Hamilton showed how far he was superior to personal feeling. The contest for the presidency had lain between Burr and Jefferson, and we have seen how broad had become the difference in Washington's cabinet between him and the latter. The breach had finally been widened to a degree which precluded all personal intercourse, and even the earnest endeavours of Washington himself had been insufficient to effect a reconciliation. Jefferson had both publicly and privately attacked the principles and motives of Hamilton, in addition to a decided opposition to all his favourite measures, while of Burr he could only complain that he had been his political adversary. But he believed that in Jefferson's hands the liberties of the country were safe, while he feared that the ambition of Burr would not be satisfied with the powers accorded by the Constitution. Had he made common cause with Burr against Jefferson and his partisans in New-York, he might have hoped for the creation of a new party, in which he himself must have taken the second rank, and which would in all probability have been powerful enough to limit Jefferson's tenure of office to a single term; nay, it even seems probable that, had Hamilton been willing to barter

his influence with his party, he might have secured the first place in a coalition.

Hamilton's course on this occasion offers a marked contrast to that of almost all other politicians. The dissatisfied members of a victorious party have in all other instances been received with open arms by the defeated faction, and even those who have abandoned the losing side have in many instances been placed in the front of the party to which they have revolted. In no particular, therefore, is the purity of Hamilton's motives more apparent than on this occasion.

The result of Hamilton's remonstrances was to withdraw from Burr a large part of the support on which he had relied, and the election of 1804 terminated, after a severe and, for a time, doubtful contest, in favour of his opponent, General Lewis.

CHAPTER XIV.

Burr demands an Explanation from Hamilton.—Correspondence between them.—A Duel is the result.—Examination of Hamilton's motives in consenting to it.—He is mortally wounded and dies.—His public Character and Views of Government.

IN the open and decided opposition which Hamilton had manifested to the election of Burr as governor of New-York, the latter saw an opening for satisfying his vindictive feelings. His ambitious projects were all blasted ; for he had, by permitting himself to be held up as a candidate, lost all claim on the Republican party, while by the Federalists he was repudiated. His pecuniary fortunes were in as dilapidated a condition as his political, and he was, in fact, in that state of desperation in which the exposure of his own life would be no obstacle to a desire of vengeance.

Hamilton, on the other hand, was a fit subject for his designs. Proud of his character as a soldier, it was almost certain that he would not refuse a hostile meeting if called for on any reasonable grounds ; while it was possible that, with a solemn sense of religious obligation, he might at-

tempt to satisfy the point of honour by the exposure of his own life, without attempting that of his adversary. Evidence exists which proves satisfactorily that, when his friends began to fear that Burr sought his life, he declared, that, although he might meet him, he would not fire at him. Whether this declaration ever reached the ears of Burr, is unknown; yet his course can only be accounted for from a feeling either of perfect security or absolute recklessness.

Early in June, 1804, Burr addressed a note to Hamilton, enclosing a copy of one from Charles D. Cooper. The latter stated that both Hamilton and Judge Kent concurred in the opinion that Burr was "a dangerous man, and one that ought not to be trusted with the reins of government; and that he could detail a still more despicable opinion which General Hamilton had expressed of Colonel Burr." Of the use of any expressions which would warrant the assertions of Dr. Cooper, a prompt acknowledgment or denial was demanded. Hamilton saw in this demand a determination to force him into a duel, and seems to have felt the conviction that no step that he could take with honour would enable him to avoid it. Under these impressions, he called to his councils none of those devoted and prudent friends, who would have seen that the preservation of his life was the most important of all objects.

His reply, while it exhibits the injustice of calling upon him to avow or deny so vague a charge, and interrogatories as to the justice of inferences drawn by others from what he may have said of a political opponent during a competition of fifteen years, intimates his willingness to avow or disavow any definite opinion which he may be charged with having declared. Expressing a trust that Burr would see the matter in the same light, the reply concludes by saying that, if he does not, "he can only regret the circumstances, and must abide the consequences."

The rejoinder of Burr, which was delivered by William P. Van Ness, was properly characterized by Hamilton as rude and offensive. He therefore declined a reply, and now, for the first time, called in his friend Judge Pendleton. This gentleman found that the affair had made such progress that it would be difficult for him to bring it to a peaceful issue, and, indeed, appeared rather to be called in to arrange the terms and time of a combat than to prevent a hostile meeting.

At the present day, the nicest casuist in affairs of honour would be unable to detect any plausible grounds on which Burr could found a claim to hold Hamilton responsible ; and even at that day, when the pistol was one of the instruments of party warfare, it seems almost incredible that a demand for satisfaction could have been made and

acceded to on such slight grounds. The very expressions cited and the inferences drawn from them were contradictory, as the epithet dangerous was incompatible with that of despicable. Hamilton was, however, governed by the feelings of a soldier, not by those of a civilian; and, with chivalric gallantry, removed the flimsy pretences under which Burr veiled his determination to compel Hamilton to fight him.

Such was the openness with which this was done, that it was for a time attempted to defend the conduct of the former on the ground that the duel was of Hamilton's seeking. We have, however, the recorded evidence of the struggles of Hamilton's mind before he took the step which committed him to meet Burr.

From the paper which he left explanatory of his course, it appears that, with perfect conviction of the impropriety of duelling, he did not feel himself so far elevated above other political men as to be emancipated from its absurd laws; and that he believed that, in the existing tone of popular feeling on the subject, his future usefulness to his country would be destroyed by a refusal to fight. It did not occur to him that he who had aided Washington in rallying the retreating battalions at Monmouth, and had led the forlorn hope at Yorktown, could not be charged with personal cowardice; nor was he aware of the deep religious feel-

ing of a large body of the people, which would have supported one who should decline a duel from conscientious motives, such as Hamilton sincerely entertained. In spite of the proud evidences of his courage and the growing feeling of religion in the community, it would be difficult to assert that Hamilton had not formed a proper view of the tendency of public opinion. It was his own death which first exhibited, in a light too strong to be resisted, the fallacy and sophistry of the opinions which held that the bloody law of honour was a necessary substitute for the deficiencies of the civil code, and the only possible method of maintaining the decency of political discussion.

The professors of religion themselves were not unanimous in their belief of the practice of duelling being contrary to the divine law, and by the civil tribunals it was almost sanctioned. Even at a recent date, the highest court of one of the most religious countries in Europe has by its verdict almost sanctioned duelling ; and, when no unfair advantages were taken, there had, up to that time, been no instance of killing in a duel having been treated as a crime. If, therefore, we cannot, on grounds of moral and religious principle, offer the least defence for the consent of Hamilton to meet Burr, we may find strong palliations for his conduct in his military character, and in the absurd prejudices of the times in which he lived.

By Hamilton's desire, the meeting was postponed until the close of a court then sitting in New-York. The interval was calmly and steadily applied by him to the promotion of the interests of his clients ; nor did there appear any failure in his accustomed zeal, or any want of the undisturbed devotion of his mind to the consideration of their causes. Yet he must have known that his life was in extreme danger. Burr's adroitness in the use of the pistol was notorious, and Hamilton had good reasons for believing that he would not be satisfied but with his blood.

The meeting took place beneath the cliff of Wehawken, and on the first fire Hamilton fell. His own pistol was discharged while in the act of falling, and obviously without any attempt at aim. The wound was not immediately fatal, and he was removed across the Hudson to the country-seat of his friend William Bayard. Here he lingered without the least hope of recovery for thirty hours. His first desire was to receive the consolations which religion alone can afford. His intimate and valued friend, Dr. J. M. Mason, was immediately sent for, and to him he expressed the sincerity of his belief in the Christian religion, his hopes through the atonement by a Saviour, and desired to receive the sacrament of the Supper of the Lord. The tenets of the sect of which Dr. Mason was a preacher forbade that this rite should

be administered except at a meeting of the congregation, and Hamilton therefore applied for the same purpose to Bishop Moore, by whom the sacred office was performed.

The anxiety with which he thus sought the support of the ordinances of the Christian church was founded on no weak and superstitious fears suddenly awakened by the certain approach of death. He exhibited all the fortitude of the hero, while he manifested the humble reliance of the Christian on the merits of the Redeemer alone. Graceful and dignified as had been his conduct throughout his life, no part of it was more fit to be an example than the few hours which intervened between his fatal wound and his death. Nor was his melancholy end without profit to his countrymen. From that epoch the duellist has been laid in a great degree under the ban of public opinion in all the Northern states, where an attempt to seek redress for real or supposed injuries in single combat would be fatal to the hopes of the aspirant for popular honours.

His murderer, for many circumstances justify that epithet, was visited forthwith by a storm of indignation, beneath which he instantly sunk. Within a few months he departed, a voluntary exile from his country, and abjectly claimed to be allowed to avow allegiance to the power against whose rule he had successfully fought. On his

return he was shunned even by those who had been most captivated by his popular arts; and, although he resumed his place at the bar, a conscious feeling of disgrace bowed down his talent, and placed him in a low rank where he had before reigned almost supreme. His history will be a beacon by which the aspiring politician may be enabled to shun the paths of an unhallowed and selfish ambition.

Hamilton was rather below the middle size, and in his youth extremely slender. In more mature age his figure assumed a degree of fulness, without approaching to corpulency. His eyes were blue, and his hair probably a light brown, although, in the fashion of the day, it was always covered with powder. His bust by Houdon may be ranked, in point of manly beauty, with those of the best days of Rome, although wanting in some points the ideal regularity which distinguishes them.

His motions were graceful, and the tones of his voice agreeable in the highest degree. To these natural requisites he added high powers of argument, readiness of expression, and simple elegance of thought and diction. He thus, as an orator, is said to have been pre-eminent even in a country so prolific in public speakers. Whether at the bar or in the deliberative assembly, he was equally distinguished for his commanding eloquence. Am-

bitious to no little degree, he sought no offices of honour and emolument, nor would have accepted them except as opportunities of being useful to his country. He looked for his recompense in the consideration of the virtuous and patriotic of his fellow-citizens, or the more sure gratitude of posterity, not in wealth or the pride of elevated rank. With such disinterested views, each call to the public service involved him in pecuniary loss, and he gradually contracted a debt of considerable amount, which remained unpaid at his decease. His appointment as inspector-general in the provisional army interrupted the growth of a lucrative professional business, and, at the same time, deprived him of the means of meeting the interest on large purchases of land which he had entered into, in full confidence that his labours as a legal man would enable him to hold it. To prevent the absolute sacrifice of his landed property, his friends and admirers united after his death in a subscription, by which his debts were paid, and the proceeds of the estate finally reimbursed their advances, but left little or no surplus to his family.

Hamilton's views of government and national policy were founded on the classic authors of Greece and Rome, and the works of the great men who maintained in England a struggle against the royal prerogative. To this he added an intimate knowledge of that unwritten code

which probably took its birth in the fastnesses of Caucasus, and acquired its first strength in the forests and marshes of Germany, whence by our Anglo-Saxon ancestors it was brought into Britain. He found this in our own country stripped of the feudal features with which the Norman conquerors had defaced it, and, with the greater part of the actors in the Revolution, sought no more than the maintenance of privileges already existing as a birthright. To these privileges, comprising the safety of life, liberty, and property, he considered every citizen to have a right, unless deprived of them as a punishment for crime, and independently of the will of his fellows, whether they constituted a majority or not. A knowledge of the republics of antiquity had shown him that, in the absence of such a safeguard, no tyranny was ever more oppressive than that exercised in the name of the people. Hence he set his face against the principles imported from France at the breaking out of her revolution, believing that if they became the settled policy of the government, they would be subversive of individual rights and personal liberty.

With these views, he looked upon the British constitution as the noblest monument of human wisdom; and while he did not defend its corruptions, nor propose its monarchical and aristocratic features for imitation, he considered it as a

model after which a permanently free government might best be formed. Those who, with the French democrats, maintained the unlimited sovereignty of the majority, have found room for accusing him of being in favour of regal power, and of wishing to ingraft a house of lords on our institutions. With how little reason this accusation was made has already been exhibited.

In the political struggles which succeeded his death, the party which was opposed to him triumphed; but that very triumph has shown how deeply seated were the principles maintained by Hamilton in the hearts, if not in the judgment, of the American people. However loud may have been the tone in which an opposing theory has been proclaimed, the practice of the government has been, in almost all respects, such as Hamilton would have himself directed. The public faith has been maintained inviolate to the national creditor; the executive has acted upon and avowed its responsibility; the independence of the judiciary, if threatened, has never been directly assailed; the supremacy of the general government has been asserted in a proclamation worthy of Hamilton's own genius; an efficient army has been maintained in time of peace, and applied to curb a generous but mistaken sympathy; a navy has become the favourite institution of the country; and, except

in a single local instance, the natural rights of individuals have been held sacred.

Among his great measures, a National Bank was adopted by the successful party ; and if, by the errors of its management and the multiplicity of state institutions, it has become unpopular, the wisdom of his course, and its consistency with the letter of the Constitution, has been established by judicial decisions and legislative enactments. The policy in relation to manufactures, which he failed in carrying, has since been for a time adopted ; but, although again abandoned, the judgment of the public appears to be rapidly resuming a sound tone in this respect, when the cotton growers of the South shall see that the spinners and weavers of the North are inseparably connected with them by the ties of a common interest.

When the angry feelings excited by the long struggle between the Federal and Republican parties shall have cooled, and all the actors in those stirring scenes shall have retired from the stage, it requires little prescience to predict that Hamilton will assume, by general consent, ~~the first place~~ among American statesmen, and ~~will be held, in~~ the estimate of his patriotic services, as ~~second~~ to Washington alone.





